

# THE CALCUTTA JOURNAL.

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### MISCELLANEOUS.

—49—

#### English Papers.

*Progress of Knowledge.*—It is impossible that an increase of knowledge should not be attended with a corresponding improvement in the morals of the community. We are ready to subscribe to the assertion of Mr. Robinson, in the House of Commons on Wednesday, that "there is infinitely less of sordid views of meanness, and selfishness in the conduct of public men, than in the views and conduct of public men in former times." Courts are never the abode of the best part of a nation; but we should think we were pronouncing a gross libel on those by whom the present Sovereign is surrounded, were we to compare them with the despicable and heartless beings described with such apparent fidelity by Babb Doddington and Lord Orford, and in the contemplation of whom, we are almost tempted to entertain a loathing for our nature. We are not certainly of the number of those who have any particular reverence for the good old times as they are called. Knowledge is power—and the diffusion of knowledge has increased the subjection of every part of the community to the remainder. This has necessarily improved high and low, rich and poor. Bishop Burnett tells us, that in his time nothing could exceed the gross brutality of the Gentlemen of England. The type of Squire Western may be said to be now fairly worn out. The country Gentlemen of the present day, are both more intelligent and more humane. To the power of opinion they are forced to pay deference; they even affect to be shocked at the coarse jokes on the treatment of prisoners, occasionally uttered by some fat City Alderman; and we have no doubt that if the Press were to do its duty in exposing the vice and misery produced by the Game Laws, they would be forced to yield in deference to that Society to which they are indebted for so many advantages, the barbarians and inhumane right by which it is so much injured. If the Country Gentlemen were formerly coarse and even brutal, we may be sure that the lower orders were not models of perfection; and it is, indeed, gratifying to think that such a scene as Fielding describes in his Journey to Lisbon, namely, that the sight of himself, in the last stage of the disease which terminated his life, formed a subject of horrible merriment to the crowd who witnessed his embarkation at Wapping, could not possibly be witnessed in the present day in any part of the kingdom.

Increase of knowledge and improved morals in all ranks and conditions—so far so good. But alas, for the conclusion! We have hitherto been examining the favourable side of the picture, but now for the reverse. Every increase of wisdom and virtue, in the opinion of Mr. Robinson, requires to be met by a corresponding increase of expenditure by Government. This is a woeful prospect for those who, like ourselves, think not only that we are not yet so perfect as to leave no room for improvement. But if public expenditure and national improvement must continue to increase in the same ratio, and if the taste of improvement should unhappily continue. Heaven knows what will become at last of this poor country! At present we are weighed to the ground by our bardens; a few more virtues will absolutely destroy us.—*Morning Chronicle*, March 21.

*Court of Chancery*, March 16.—*Hawes v. Sams*.—The parties in this case being in attendance, Mr. Shadwell said he should not trouble the Court upon this subject until the next Seal. It

was an application to restrain the defendant from publishing a song, in a work entitled the *Gazette of Fashion*, of which he is proprietor.

The Lord Chancellor.—"How long will it be expected I shall interfere with these trifling subjects of song singing? (*a laugh*.) It will, I suppose, be expected for me to restrain a music or singing-master from teaching a young lady the method of singing a particular song? It is a jocular subject, and I suppose, I shall be called upon to restrain. "Cease your funning."—(*much laughing*.) I would however suggest that it would be fitter to apply to the Vice Chancellor—a much younger man than me, and who understands, I have no doubt, matters of this sort much better than I do." The parties then left the Court.

*Arrears of Rent.*—The Duke of Portland has remitted the arrears of rent which were due last Lady-day from his numerous tenants at Whitwell and the neighbourhood; and in future his rents will be regulated by the price of wheat. Earl Grosvenor has made large reductions in all his rents; in one instance from 700*l.* to 400*l.* per annum, and a remission of 600*l.* in back rent. Lord Crewe has cancelled the leases of his tenantry in Cheshire and Staffordshire, which were granted during the high prices of agricultural produce, and granted new ones at a reduction according to the present prices.

*Tithe.*—Dr. Elrington takes averages of the amount of tithe and the produce of tillage, during the last seven years, and he finds in general the parsons of his diocese contended to accept the thirtieth instead of a tenth. An acre of land he supposes to be capable of producing 19*l.*'s worth of potatoes. The tithe of this would he says amount to 1*l.* 18*s.*—but parsons in general have been satisfied to receive 12*s.* 11*d.* 12*s.* 11*d.* is a very small thing in the eyes of a man who enjoys, as Doctor Elrington does, 7 or 8,000*l.* a year, for the good he is also to do for mankind—but to an unfortunate Irish peasant, it is the provision for one of his family for an entire year. Besides, the Lord Bishop of Limerick overrates the value of crops when he supposes the average price of all the potatoes grown in Munster at 2½*d.* a stone. In many parts of Munster potatoes were sold some time back for 1½*d.* and 1*d.* a stone. In some of these parts, the 19*l.* returns should be cut down to 9*l.* 10*s.*—and will the considerate and sensitive Doctor tell us that out of this sum 12*s.* 11*d.* ought to be taken for the parson, after the rent, even at the reduced rate, and all other expenses are defrayed? Cut down the rent to 5*l.* and the expenses to 3*l.*—and the residue will be 30*s.* Will the gracious Doctor Elrington contend that 12*s.* 11*d.* should be taken from this sum?—Will he say, that the parson should have for his sole benefit, nearly one half, not of what the peasant receives but makes of his land, when the world beholds, at this time, in Popish Spain, her parsons receiving twentieths, and expending three-fourths of these (according to the system of "our pious ancestors" in Ireland) in educating, cloathing, and feeding the poor, and in erecting public works?

*A Coachman's Conscience.*—A hackney coachman appeared at Bow-street, last week, upon a summons, to answer the complaint of a gentleman from whom he had extorted seven shillings and sixpence for a four shilling fare!

How could you think of attempting such an impudent extortion? asked the Magistrate.

"Why, your Worship," honest Coachee, "I'll tell you how it was—I know I'm guilty, but I'll tell you how it was, and I hopes you'll take into your consideration, and not be too hard with me. The ge'mman's servant what rode on the box wi' me, said to me, says he, as we were toddling a little ways down Oxford-street, your Worship—says he to me, says he, 'Coachee' says he, 'there's a weddun (wedding) in this job, so you needn't be afeard of laying it on pretty thick; and then you know you can tip me a bob for my own cheek.'"

"And pray what is a bob?" asked his Worship.

"Why a shilling your Honour, all the world over!—just as we say a tanner, or a tizzy, or a tilbury, for a six pence, or a quid for a guinea. Well, your Worship, when he ax'd me to stand a bob, I thought he was a rummish sort of a customer, but howsomever I took the hint, and when I set the ge'mman down I ax'd seven and six pence, instead of four shillings, God forgive me! But I thought I couldn't in conscience ax less!"

"And pray," asked the Magistrate, "did you give the servant the shilling you had promised him?"

"No, your Worship, I wouldn't give any thing; 'cause I thought he didn't deserve it, after putting me up to diddle his own master in that manner!"

The gentleman said, it was certainly true that on the day in question he had been present at a wedding; but he had received an excellent character from the servant, and as he had now lived with him several years, during which time his whole conduct had been unexceptionable, he would not believe him capable of making such an unprincipled proposition.

The Magistrate said, he had little doubt that it was a mere invention of the coachman's, and even admitting it to be true, it was no palliation of his offence.

Honest Coachee was then fined twenty shillings for the pliability of his conscience; and he left the office, observing, "I'll take 'nation good care how I gets into this here sort of a scrape again."—*Glasgow Chronicle*, April 6.

**Shropshire Agriculture Meeting.**—On Monday last a Meeting of Land Proprietors of this county took place at Shrewsbury, at which a Petition to the House of Commons was adapted, representing "the intense and unparalleled distress which prevails"—expressing "deep regret and disappointment at the inadequacy of the measures proposed by Government for its relief"—and paying for "a further reduction of taxation, and the enforcement of rigid economy in every department of the State."

**Legitimate Wit.**—Though "brevity is the soul of wit," the *Chancery* bar, from the Bench to the back row, is renowned for its excellence in those lively intellectual coruscations, by the learned called *paranomasia*, but by the vulgar, *puns*. Not that clients or "heads in *Chancery*" ever seem to be very agreeably affected by them, by the tickling is always observed to be highly relished by the Court. "Let those laugh that win" is reasonable. Last week some one having occasion to mention the appointment of "the *Agricultural Committee*," he was checked by a "Learned Gentleman, Mr.—, who accused him of mis-pronunciation. "Not *Committee*, Sir," said he, "that is not the proper accentuation—you should pronounce the word as we do here, when we speak of *Committees* of the Estates of Lunatics and Idiots."

**Private Distillery.**—For some time past the Excise have had information of a private distillery, of considerable magnitude, in the neighbourhood of Upper Thames-street, but the exact place could not be ascertained till within the last few days, when an anonymous communication was sent to the Excise that it was carrying on at the extensive premises, No. 241, Upper Thames-street, and that the proprietors were understood to be sugar-refiners. In consequence of this information, Allanson and several active officers repaired thither on Wednesday afternoon, and on getting to the premises they found painted on the door-post

"Gwillt and Co.," and on the door was written "No persons admitted except on business."—The officers first endeavoured to enter without being perceived; but finding the door fastened inside, they were induced to ring a large bell at the side of the door, when a Gentleman, dressed very respectably, came down, who, on seeing the officers, opened the door and rushed by them into the street without saying a word. Allanson proceeded with the other officers up stairs, when on getting to the first floor three men rushed out of the front room, ran up stairs, and effected their escape at the top of the house.—The officers on entering the room were nearly suffocated with steam, two stills of considerable dimensions being then at work. The room was extremely well fitted up as a distillery, with water pumps, and the water laid on with leaden pipes communicating with the yard; the front windows were blocked up, to prevent the operations being discovered. The officers found upwards of 2,200 gallons of molasses wash, 200 gallons of low wines, 100 gallons of strong spirits, altogether making about 441 gallons of spirits, 22 wash-backs, vats, still-worms and heads; the whole of this extensive apparatus was immediately conveyed to the great store-room at the Excise-office. This illicit trade has been carrying on for a considerable period, by which it is supposed the revenue has been defrauded to an enormous extent.

**Bow-street.**—Mr. John Moulton was brought before Sir Richard Birnie, on Thursday, much against his inclination, to answer the complaint of his friend Mr. Ambrose Pummerton. Mr. John Moulton is a young man, and a tailor by profession, and not remarkably handsome. Some time ago he called upon his friend Mr. Ambrose Pummerton, and told him he was fallen in love with a Miss Juliana Wiffen, and that Miss Juliana Wiffen regarded him tenderly; so much so, that she had consented to take a walk with him on the following Sunday. Mr. A. Pummerton congratulated him thereupon—wished him joy, and all that, and added—"but what have I to do with it?"—"Why" said Mr. J. Moulton, "I have been thinking, as I have no watch, how quer I shall look if she should happen to ask me what o'clock it is!"—"That's very true," replied Mr. A. Pummerton, "but could not you say you have left it at home, or at the watch-maker's, or something of that sort?"—"Oh, no!" rejoined Mr. J. Moulton, "she's too deep to be gammoned in that manner; and if you lend me your watch for a bit, I'll be blowed if I don't return it you safe and sound!" Mr. A. Pummerton is a good natured person, and he agreed to do this: though he stipulated that it should be returned "as soon as done with." So Mr. J. Moulton went a courting with Mr. A. Pummerton's double-bottomed silver hunter in his fob; and, with the addition of a spick and span Waterloo blue ribband, he so "dazzled the eyes and bewildered the brains" of Miss Juliana Wiffen, that in one little fortnight, she consented to become Mrs. J. Moulton. Mr. A. Pummerton now presumed that the watch was "done with; but it did not return. "This is very comical,"—though he to himself—"but I won't say any thing about it yet—I'll wait till the honey-moon is over." The honey-moon did pass, and many other moons, but still he saw nothing either of his watch or Mr. J. Moulton—indeed they did not even ask him to the wedding supper, or any other supper, dinner, breakfast, or lunch, whatsoever; and his sense awakening of the ungrateful getting the upper hand, as it were of his friendly consideration towards Mr. J. Moulton, he, somewhat peremptorily, demanded that his double-bottomed silver hunter should be returned forthwith. This demand produced no effect whatever; month after month rolled away, and eventually the bamboozled Mr. A. Pummerton, discovered that his ungrateful friend, after having literally won a wife with his watch, had been base enough to put it "up the spout"—in other words, he had pawned it! Under these circumstances he sought redress from the laws of his country.

Mr. Moulton, in defence, admitted the fact; and said he was willing to pay the value of the watch by instalments.

The Magistrates told him he was a contemptible fellow, and committed him to prison for three months under the illegally pawning Act.—*Morning Chronicle*, March 21.



## Naval History of Great Britain.

Considering Mr. James's book, under the above title, as a work of admitted national utility, we are convinced that an extract from it will be interesting to our readers. The following was the first decisive frigate action of the war of 1793, an action obstinately contested, and nobly won, and the successful result of which gained the present Lord Exmouth his knighthood. In exhibiting the comparative force of the combatants, Mr. James evinces an impartiality that gives great weight to his authority:—

### "NYPHE AND CLEOPATRE.

"The British 36-gun frigate *NYPHE*, Captain Edward Pellew, having again separated from the *VENUS*, was cruising alone, when at half past three on the morning of the 18th of June, (1793,) the *Start* point bearing east and by north, five or six leagues, she discovered, and at four gave chase to a strange sail, in the south-east quarter. The latter, which proved to be the French 32-gun frigate *CLEOPATRE*. Captain Jean Mullen; bore down to meet her. At a little before six the two frigates passed each other within hail. The *NYPHE*'s crew manned the shrouds, and gave three cheers; Captain Mullen upon this came to the gang-way and waving his hat, exclaimed 'Vive la Nation! Captain Pellew, who stood observing him, and whose hat was also in his hand, now raised it to his head—the preconcerted signal for *NYPHE*'s artillery to open. At a few minutes after six, a furious action commenced, and the ships were soon yard-arm and yard-arm; the sails and rigging being so completely intermixed, that several of the *NYPHE*'s topmen passed along the *CLEOPATRE*'s yards, and assailed the men in her tops. At half past six, the *CLEOPATRE*'s mizen-mast was shot away; and in a quarter of an hour afterwards her wheel: in consequence of this double disaster she fell on board her opponent; whose crew presently rushed on the *CLEOPATRE*'s decks and struck her colours. The duration of the action was fifty-five minutes, and the shattered state of both ships proved how well it had been contested. The *NYPHE*'s fore and main-mast were much damaged, and her main and mizen stays shot away; as was the greater part of her sails, shrouds, and running rigging. The *CLEOPATRE*, besides losing her mizen-mast, was much cut up in her remaining masts, also in her sails, rigging, and hull.

#### Each Ship's Armament.

|                                     | <i>NYPHE</i> .*           | <i>CLEOPATRE</i> . (French.) |
|-------------------------------------|---------------------------|------------------------------|
| Main-deck, . . .                    | No. 26 long-guns 12-pdrs. | No. 28 long-guns 12-pdrs.    |
| Quarter-deck }<br>and Forecastle, } | No. 2 long-guns 6-pdrs.   | No. 8 long-guns 6-pdrs.†     |
|                                     | No. 4 carronades 32 pdrs. | 4 carronades 36-pdrs.        |
|                                     | No. 8 carronades 24-pdrs. |                              |
| Carriage-guns, . . .                | 40                        | 40                           |
| Men and boys, . . .                 | 240                       | 320†                         |

The *NYPHE* lost her boatswain, a master's mate, 3 midshipmen, 14 seamen, and 4 private marines, killed; her second lieutenant, 2 midshipmen, lieutenant of marines, 17 seamen, and 6 private marines, wounded: total 23 killed and 27 wounded. The *CLEOPATRE*'s loss in killed and wounded, including among the former, her brave commander (who fell early in the action) amounted, as stated by her surviving officers, to 63.

#### Comparative Force of the Combatants.

|   | British. | French. |
|---|----------|---------|
| Ships, in number, . . . . .                           | 1        | 1       |
| Guns, . . . . .                                       | 40       | 40      |
| Broadside weight of metal, in lbs. { long-guns, . . . | 162      | 208     |
| { carronades, . . .                                   | 160      | 78      |
| Total, . . . . .                                      | 321      | 286     |
| Crew, in number, . . . . .                            | 240      | 320     |
| Size, in tons . . . . .                               | 938      | 6913    |

\* Had been a French frigate, taken in 1780: her class was that D in the annual abstracts.

† These have been represented as 8-pounders, but none of the French 12-pounder frigates, any more than the British carry so heavy a calibre upon the quarter-deck and for castle.

‡ As deposed to by the *CLEOPATRE*'s officers, when called upon in the customary manner, to certify the number of men that were alive on board their ship at the commencement of the action, in order to entitle the captors to be paid head-money, or at the rate of five pounds for each man.

§ The following were the principal dimensions of the two ships: *NYPHE*, length of birth deck 143 feet 4 inches, extreme breadth 38 feet 3½ inches. *CLEOPATRE* length of birth-deck, 145 7½ inches feet extreme breadth 37 feet 8½ inches.

The British vessel was here, by a trifle, the superior in force, except as to compliment which the French vessel had the advantage by a fourth. The numbers 59 and 63, for the killed and wounded of the two ships, show that, in point of practical gunnery, they were nearly upon a par; and both parties displayed throughout the contest, an equal share of bravery and determination. Had not the *CLEOPATRE*, by the loss of her wheel fallen on board of her opponent, and had not a volunteer of the *NYPHE* run aloft, and cut away the leech of the *CLEOPATRE*'s main-top-sail, which, by having entangled the two main yards, was endangering the *NYPHE*'s wounded main-mast, the action would have continued longer, and might, without any reflection upon the conquered party, have terminated differently.

On the 21st, the *NYPHE* arrived at Portsmouth with her prize and on the 29th, Captain Edward Pellew, along with his brother Captain Israel Pellew (who happened to be on board the *NYPHE* during the action,) was introduced by the Earl of Chatham to George III.; when his Majesty was pleased to confer on one brother the honour of knighthood, and on the other, the rank of post-captain. The *CLEOPATRE* was purchased by government; and under the name of *OISEAU*, (there being a *CLEOPATRA* already in the service,) became a cruising 36-gun frigate in the British Navy."—*Courier*, January 24.

*Lord Anson*.—This illustrious circumnavigator suffered much by gaming. The treasure of the Spanish galleons became the prize of some sharpers at Bath: on which occasion it was observed—"That Lord Anson had been round the world and over the world but never in the world."

*Stretching legs*.—A gentleman of grenadier growth having travelled in the mail all night, observed to his fellow-passengers in the morning, he "would just get out and stretch his legs;" when his opposite friend, an Irishman, who had been greatly annoyed by them during the night, observed, "that there was no occasion for the gentleman to trouble himself, as they were quite long enough already."

*Clerical Modesty*.—The Clergyman who preached at Winterbourne, a village in the West of England, a few Sundays ago, had read the Liturgy, and was about to ascend the pulpit, but he found that he had left his Sermon at home. He whispered the clerk for an expedient, when, on recollecting himself, he addressed his parishioners in this manner:—"I have not my sermon with me to-day, but I will read you a chapter out of the book of Job, which is worth two of my discourses;" He did so and gave general satisfaction.

*Voltaire*.—While Voltaire was living at Ferney, he had his woods repeatedly robbed. This caused him to have recourse to the parson of the place, whom he told to convince the people in his next sermon that it was not right to rob his woods. The parson preached on stealing, but not in such a manner as to come home to the point in the way the philosopher wished. When the sermon was finished, Voltaire got up and said, "My friends your pastor is a very good man, but he has not explained himself with sufficient perspicuity. What he means is, that if you continue to rob my woods, you will be banged in this world and d—d in the next."

*Barrington*.—During the fashion of the celebrated pick-pocket, Barrington, an alarm was one night raised in the box lobby of Covent-Garden Theatre, that he was in the house. The news spread from box to box like electricity. One gentleman had lost a snuff-box, another his watch, one lady her purse, another her smelling bottle; in fact, every body had lost, or said they had lost something. Behind Mrs. J——, the sister of the late Earl of C——, sat a gentleman in black, who with much politeness communicated to her this most dreadful intelligence "The villain," said she, (whipping a splendid pair of brilliant ear-rings out of her ears, and putting them carefully into her pocket-book,) "shan't have my ear-rings, I promise. When the play was over, Mrs. J—— adjourned to the rout of Lady D——. Upon entering the drawing-room, she flew up to her "dear, dear friend," and after embracing her with transport, told her Ladyship what an escape she had had from that "horrid villain Barrington," felicitating herself that only for her amazing ingenuity and cleverness she must most certainly have lost her drops. As she could now with perfect safety hang out, her gems, she thrust her hand into her pocket; but after a poke or two, she changed colour and started—"he has them," said she in an agony. "Impossible," said her sympathetic friend, "impossible! it was too true; after the most scrupulous rummage they were not to be found. Upon diligent inquiry, it appeared that the very Gentleman in black, who had so politely cautioned Mrs. J—— against Barrington was Barrington himself. As soon as the Lady had deposited her brilliants in her pocket that able thief skillfully extracted them.

\* Edward Bones; afterwards master of the *Sceptre* 64, and who perished at her shipwreck.

On the Use of Coal-Tar.

To the Editor of the Technical Repository.

SIR,

Having, at the request of Joseph Hume, Esq. M. P., assisted Mr. Good in making some experiments at Mill Wall, Poplar, on Saturday the 23d inst., to endeavour to prove the injurious effects of injecting coal-tar into the timbers of ships of war, to prevent the dry rot, (the plan of Sir Robert Seppings, one of the Surveyors of the Navy,) I beg leave to state, that the whole of the experiments, as relate to its destroying the wood, copper, and iron-fastenings,—and its explosibility by red-hot shot, the flash of a pistol, or the contact of flame,—were entirely defeated and disproved, by the most irrefutable and satisfactory evidence; to which, out of above fifty naval and scientific persons, besides Members of Parliament, there was but one dissenting voice; namely, that of Mr. Good, the proposer of the objections; to whom the old adage strictly applies.—

"He that's convinc'd against his will  
Is of the same opinion still."

It is but a fair and candid tribute to Mr. Hume's conduct to state, that he desired me to use every caution in the fair conduct of the above experiments; so that no advantage should be taken, to bear out the charge made against a practice said to be so injurious to the best interests of the country. And it is also necessary to state, that the Commissioner of the Navy, Sir Byam Martin, and Sir Robert Seppings, behaved in the most open and liberal manner.

The whole of the spectators were invited on board the *Russell*, on the stocks, a new ship that had been injected with the coal-tar; and Mr. Good was provided with the means of setting fire to the ship, both by gunpowder and flame. It need hardly be added, that his attempts to do so were entirely vain and fruitless; in fact, he could not set the ship on fire by any fair or ordinary means.

Sir Robert Seppings described to us the whole of his recent improvements in ship-building, and in preventing the dry-rot; and I hope and trust the day is not far distant, when his benevolent and scientific plans will be generally adopted in all classes of ships, wherever His Majesty's subjects are destined to expose their lives and property.

As to the objection which Mr. Good made, of the probability that the vapour arising from coal-tar would injure the health of the seamen, the fact has been already set at rest, by the returns laid before the Navy Board of His Majesty's ship *OWEN GLENDOWER*, a ship most fully saturated with coal-tar; having in two years, on a sickly station, lost only two men, and those by common diseases. In fact, having known the gas from the oil of coal-tar prescribed in phthisis pulmonalis (consumption) with the most decided advantage in numerous cases, I am prepared to say, that a moderate proportion of the vapour of coal-tar is beneficial, rather than hurtful: but on board the *Russell*, the vapour disengaged was not enough to do good, much less harm.

This vapour increases the appetite, and destroys putrid miasmata: it is useful in every situation where animal or vegetable matter is suffering spontaneous decomposition, as it neutralizes the gaseous fluids liberated from such substances.

Having had a violent prejudice against the plans adopted by the Navy Board, from the invidious reports of persons who either ignorantly or willfully misrepresented the process and results, I am only now doing an act of justice in giving publicity to this statement of facts; whereby I relieve my own mind, and pay a just tribute to the merit I was before, a false and mistaken zeal, too ready to have opposed.

I am sure you will be equally ready and disposed to give effect to these useful and patriotic plans, through the medium of your valuable Repository.

I am, Sir, your most obedient humble Servant,  
6, Nottingham Street, 26th March, 1822. H. C. JENNINGS.

*The Duchess of Devonshire.*—As the late beautiful Duchess of Devonshire was one day stepping out of her carriage, a dustman, who was accidentally standing by, and was about to regale himself with his accustomed whiff of tobacco, caught a glance of her countenance, and instantly exclaimed, "Lord love you, my lady, let me light my pipe in your eyes!" The Duchess was so delighted with the compliment, that she frequently afterwards checked the strains of adulation which was so constantly offered to her charms, by saying "Oh! after the dustman's compliment, all others are insipid."

*Bargains.*—A definition of what are generally called bargains, is the buying of a bad commodity that you don't want, because you can get it cheaper than a good one that you do want.

Stanzas.

Written on viewing the Monument of two Sleeping Children, by Chantrey, in Lichfield Cathedral.

O CHANTREY! thou has stolen the feeling all  
Of Nature's young and innocent worshippers,  
Of those whose hearts keep holy festival  
Through the fair seasons of their beauteous years;  
Whose feet go printless over woe; whose tears  
But gem the looks of gladness where they light;  
Whose lips are wet with honey; while the fears,  
Waylaying mortal joys, may never fright  
The soul from its repast, pure, sensitive, and light.

For when the blight of ugly Death had thrown  
Its lustre from that seat of love, the eye,  
Then camest thou, and in thy chisel'd stone  
Hewest out these an immortality.  
While their free spirits sought to glorify  
The holiness of innocence with wing,  
Thou bad'st their fairy forms entranced lie,  
As if they dreamt of Heaven, and lovely things  
That Future still to Youth in radiant beauty brings.

O artist! pity thou couldst not bestow  
The breath into those lips that gently part;  
And give the warm blood in those veins to flow,  
That seem to converse with the throbbing heart;  
And bid that perfect foot with ardent start,  
Climb the bright Helicon of Life's domain;—  
Pity! yet hardly so;—man has no art  
To wake the youthful melody again;  
And joy is oft, at best, the holiday of pain.

Sweet forms; sweet memories of what have been!  
Fair triumphs of a noble art! ye lie  
Mocking at things of flesh, in all your green,  
And everlasting freshness. Oh! gone by  
I have known forms like yours,—yet they could die!  
But your sweet sympathies shall parish not;  
And ye, like rainbows promise-bent on high,  
Shall point the mourner from his earthly spot,  
To where immortal youth is joy's peculiar lot.

TO MISS M. A. TREE.

DELICATE Spirit, thou wert made  
For the gentle Viola:  
And rue and rosemary to braid,  
With poor Ophelia:  
Or with sweet Juliet's faith to prove  
The aye-enduring power of love.

Every softer, kindlier glow,  
Finds its resting-place in thee:  
So sweetly dost thou speak of woe,  
It seems thy fitting ministry,  
For ever thus the plaints to tell  
Of maidens who have loved too well.

In Sorrows' touch so lightly press'd,  
And Hope still lighter, burning still,  
Where young Love liv'd, and Beauty bless'd  
The fond enthusiast of his will,  
We mark the changing thoughts that prove  
The maid who "never told her love."

Or with Ophelia's fleeting mind,  
To shrink at once before the blast;  
To wither in an hour, and find  
But one short grief,—the first and last:  
To view the desolation wide,  
And yield, nor dare to stem the tide.

Or, in fond Julia's shape to tell,  
What woman's heart can do and dare,—  
What tale hath ever told so well  
The tyrant thrall that lovers bear?  
And while I look on thee, I feel  
Twere rapture at some shrines to kneel.

Delicate Spirit, thou wert made  
Thus to breathe thy noiseless spell,  
That hovers round like fairy braid,  
And binds, although invisible.  
Delicate Spirit, fire the well,  
Oh! breathe, for ever breathe thy spell.



## Review of a Work on the Press.

USEFUL AND WELL TIMED—THOUGH NOT QUITE NEW,

*Memoires de Candide, sur la Liberté de la Presse, la Paix generale, les Fondemens de l'Ordre social, et d'autres Bagatelles. Par le Docteur Emmanuel Ralph. Ouvrage traduit de l'Allemand, sur la Troisième Edition, à Altona.*

This is a work of wit and humour; and it really contains more strokes of genuine satire, than any production of the Continental press which we have seen for several years. It professes to be a continuation of the adventures of the celebrated hero of Voltaire, whom it brings again to Paris, and makes a spectator of the changes that had taken place since his former visit to that metropolis. It was published two or three years ago; and professes to refer to no later period than the consulship of Bonaparte. Of course, it has been circulated only by stealth, within the sphere of his influence; for it abounds with observations which he does not tolerate. The grand subject is the liberty of the press. The other topics, announced in the titlepage, occupy but a small proportion of the volume; and it is to this great theme, which alone is too extensive for us, that we shall now confine our attention.

The subject strongly recommends itself to us on a double account. In the first place, deploring as we do the state of the press on the Continent, it is highly interesting to gain some information relative to the sentiments concerning it which still remain alive in the breasts of instructed men, and promise, at some future day, the commencement of a better era. In the next place, observing with extreme satisfaction, the attention which this most important subject has recently attracted among ourselves, we feel an anxious desire to contribute our little aid to confirm and direct the ardour which seems to be again reviving in favour of this best bulwark of our liberties.

Candide, who for many years had been reading, with faith and joy, the lofty accounts of the liberty which the people of France had magnanimously reconquered from their Sovereigns, met with many things which surprised him upon his arrival in Paris. We pass over the history of his adventures however, till we come to the account of his application for a license to print his Travels. For this important purpose.

'Il se presenta au Palais Directorial, un jour d' audience publique des ambassadeurs, pour avoir un privilege. On etait alors en Vendemiaire de l'an VIII, qui par un rapport assez bizarre, repond à la fois aux mois de Septembre et d'Octobre de l'année 1799: le hasard fit adresser Candide au General Moulins, devenu depuis peu un de cinq ou six amovibles de la republique; ce general, aux premiers mots de l'humble harangue du petitionnaire, se mit à sourire avec dignité: "Mon ami, lui dit il, on imprime en France tout ce que l'on veut, *pourvu qu'on ne conspire pas contre le gouvernement; la presse est libre, et il n'y a que les esclaves couronnés qui donnent des privileges.*"

Candide was astonished and delighted with the answer. It appeared to him to breathe the very spirit of liberty. Printing by license stigmatized as the characteristic badge of slavery;—freedom to publish every thing, provided an author conspires not against the government!—Nothing, it appeared to him, could be more noble and magnanimous. He hastened to carry his work to a printer, saying to himself.

'Enfin, j'ai trouvé le pays où l'homme de bien peut penser tout haut; où l'on peut dire impunément, que les nations n'appartiennent pas en propre à l'individu qui les gouverne; que les assassinats glorieux en bataille rangée ne sont pas, dans l'ordre social, les premiers des exploits.'

He soon found, however, that the little clause which had at first appeared to him so reasonable, '*pourvu qu'on ne conspire pas contre le gouvernement,*' was big with consequences he was far from suspecting. He carried his work to Didot, 'le premiers des imprimeurs de l'Europe.'

'Celui-ci le parcourt, et trouve quelques petites libertés philosophiques, sur le droit naturel, sur l'essence de la morale, sur le principe primordial de la propriété; et le rend à l'étranger, sous prétexte qu'un pareil ouvrage ferait saisir ses presses.—Mais je n'y vois que la vérité, dit Candide. Quelle vérité, répond le typographe? Est-ce celle qui est à l'ordre du jour, celle qui le gouvernement permet de propager? Je ne connais pas deux espèces de vérités, repart l'amant de Cunégonde. Tant pis, citoyen, reprend l'imprimeur du sénat; votre livre, si je le publiais, vous conduirait en droiture à Sinnamari et moi à l'hôpital. . . . Souvenez-vous bien du mot despotiquement lumineux que vous a dit le General Moulins: *On peut imprimer en France tout ce qu'on veut, pourvu qu'on ne conspire pas contre le gouvernement.* La loi permet bien à votre vérité de voyager; mais pour peu que cette vérité contrarie le patriotisme factice d'un homme en place, celui-ci ne manquera pas de dire qu'elle conspire.'

Another friend, whom he consulted, told him,

'Il est bien évident que vous conspirez contre les deux partis qui tour-à-tour se partagent ici la toute-puissance: ces deux partis, tout acharnés qu'ils sont l'un contre l'autre, se renouvellent, quand il le faut, non contre le royalisme auquel ils ne croient pas, mais contre la masse des gens de bien.'

Such then, as Candide experienced, was the state of the liberty of the press in France under the Directory; and the circumstances of the case appear to us to be full of important admonition. Nothing could be more lofty and comprehensive than the expressions by which the liberty of the press was ostensibly sanctioned; yet, by the addition of a short, general, qualifying clause, they were substantially abrogated and annulled; and, instead of affording protection, became an instrument of delusion. Is there, or is there not, any resemblance between this Directorial law, about the liberty of the French press, and the law of libel in England?

Our law in favour of the liberty of the press consists in mere general expressions and these not engrossed in statutes, but inserted in the works of individual lawyers, and there accompanied with qualifying clauses altogether as vague and comprehensive as the '*pourvu qu'on ne conspire pas contre le gouvernement,*' which was found so efficacious in France. Thus, Blackstone tells us—'Every person has an undoubted right to lay what sentiments he pleases before the public: to forbid this, is to destroy the liberty of the press.' This is nearly equivalent to the general permission of Directorial law. The learned author proceeds—'But if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity.' Now, where are we to look for the authentic definition of these important words *improper, mischievous, illegal*? Alas, we know not. They stand on the very same foundation with the '*pourvu qu'on ne conspire pas contre le gouvernement*' of General Moulins; and had our government the same views, and were our people equally submissive, the same use might no doubt be made of them. That the qualifying clause is of this comprehensive nature we may appeal to the sentiments of the most celebrated judges and authorities. The Lord Chief Baron Comyns, in his justly admired Digest of the English Law, defines a libel to be, 'a contumely or reproach, published to the defamation of the government, of a magistrate, or of a private person.' Now, *contumely, reproach, and defamation*, include every thing that can be construed into censure. No censure, therefore, of the government, or even of a public functionary, is safe in England. We shall produce only one other authority, as being both a very recent, and a very high one. On the trial in the cause, entitled, *The King against Cobbet*, 24th May 1804, Lord Ellenborough said, 'It is no new doctrine, that if a publication be calculated to alienate the affections of the people, by bringing the government into disesteem, whether the expression be ridicule or obloquy, the person so conducting himself is exposed to the inflictions of the law:—It is a crime.' Now, to point out any fault in the government undoubtedly tends to bring, so far, the government into disesteem. Therefore, to point out any fault in the government, is a liberty not allowed to the press by the law of England.

Several years ago, we expressed our sense of this important matter in the following terms:—

'The liberty of the press is, indeed, the most inestimable security of that of a people, because it gives that tone to the public feelings on which all liberty must ultimately rest. But how is it that we have learned to deem it one of our constitutional rights? A great deal is said about it in pamphlets; a great deal is said about it in essays on government; it is an acknowledged privilege everywhere, but in Westminster-Hall. There, unluckily, it has neither a habitation nor a name. Mr. de Lolme tells us, that he was struck at not being able to hear of any law which enacted the liberty of the press, till it occurred to him that it existed, because it was not forbidden. But, with a little more inquiry, this ingenious foreigner might have found law enough against this *so-called* right, though none for it. The truth is, the liberty of the press does not exist, nor ever did exist in England, but by connivance. And unless, at our distance from the metropolis, we are deceived as to the actual practice of the English courts, the indulgence itself (*viz. the connivance*) has been reduced within very narrow limits. It is as difficult for the most adroit pamphleteer to arraign public measures, without blaming public men, as for Shakespeare's Jew to take his pound of flesh without a drop of blood; and if this is the fullest extent of the privilege, we may safely pronounce, that *fari que sentius* will be as much a phantom of right in practice, as it has always been in law.'

It certainly is not because we expect to prove any thing by our own authority, that we have thought it worth while to present this passage to the eye of our readers; but merely to satisfy them that the opinions which we now deliver have not been hastily adopted, and are not the immediate suggestion of any particular occurrence to which the public attention may have been recently attracted. In fact, the authors most inclined to strengthen to excess the springs of authority have not when men of discernment, failed to come to the same conclusion. That the

letter of the law,' says Mr. Hume, 'as much as the most flaming court sermon, inculcates passive obedience, is apparent.'\* 'The laws of this country,' says Mr. Burke, are for the most part constituted, and wisely so, for the general ends of government, rather than for the preservation of our particular liberties. Whatever, therefore, is done in support of liberty, by persons not in public trust, or not acting merely in that trust, is liable to be more or less out of the ordinary course of the law; and the law itself is sufficient to animadvert upon it with great severity. Nothing, indeed, can hinder that severe letter from crushing us, except the temperaments it may receive from a trial by jury.† These passages merit no ordinary attention. In the latter, 'more is meant,' by a great deal, 'than meets the ear.' The letter of the law would crush liberty, says Burke, but juries save it. They can only do so, then, by counteracting the law; by breaking it. And the sum of the matter is, that juries save liberty from being crushed, by delivering verdicts contrary to law. But, is this actually the case? or, if it were, is it desirable or necessary that it should be so? Is it true, that juries would afford us sufficient security, had we administrators really bent on mischief, and were they men not to be deterred from their purposes by the sense of public disapprobation? For our own parts, we are not of the same opinion with Mr. Burke. We do not ascribe it to juries, that the letter of the law has not been allowed to crush our national liberties. We ascribe it, without any hesitation, to the forbearance of Judges, and the forbearance of Ministers; perhaps, we should rather say, to the prevalence of public virtue in the nation; which disinclines judges and ministers, though impelled to arbitrary conduct by the strongest motives, and unrestrained by law, from extinguishing the power of censure on their conduct. They are restrained by their respect for public opinion; by the knowledge which they are aware exists in the nation; and the prospect of the danger which, at a certain point, would attend national disapprobation. That juries, who, except on rare and remarkable occasions, are passive instruments in the hands of the judge, would afford an adequate security against power and talents resolutely applied to the destruction of our liberties, there is not, we should suppose, a man in the kingdom who would undertake to maintain. The nation, as Lord Liverpool on a recent occasion very justly observed, had the protection of juries in the time of Henry the Eighth and Charles the Second, but found them a very feeble obstacle to the inroads of arbitrary power. In fact, the atrocious scenes which were acted in the courts of justice, on the occasion of the Popish plot, afford a lamentable and instructive instance of the facility with which juries, when public delusion is first artfully spread may be made use of as instruments to perpetrate the most foul and odious of the purposes of tyranny.

With regard to the protection which it is pretended that the liberty of the press receives from juries, another circumstance of decisive influence is to be considered. It is not by common juries, selected under extraordinary securities for impartiality of choice, but by special juries, selected under no adequate securities for impartiality of choice that all causes for libel are tried. We are far from saying, that any improper influence has been used, for a greater number of years than it is needful for us to look back, in selecting special jurymen for such trials. Indeed, we are perfectly persuaded, that if any such instances have occurred, they have been exceedingly few. But this we will say, and without fear of contradiction, that with ministers and judges rests the power of selection; and that to their virtue or discretion it is owing, if they make no use of it. The fact is, that they never need send a man to trial for libel, without being able to render themselves, if they please sure beforehand of the verdict which will be pronounced against him.

It is right that this important circumstance should be fully known. It is right that the merit of preserving to us that portion of the liberty of the press which we actually enjoy, should be ascribed to those to whom it is really due—not to juries, but to those under whom juries act. It is right to point it out as an interesting subject of consideration, whether so important a security, for every thing valuable in government, should be left to depend, as in this country it does, upon the virtuous forbearance of public men, under no other restraint against abuse, than the uncertain and ever-varying control of public inspection and opinion. 'The dangerous consequences,' said Lord Erskine, in his memorable speech on the trial of the Dean of St. Asaph, 'of the doctrines established on the subject of libel, are obscured from the eyes of many, from their not feeling the immediate effects of them in daily oppression and injustice: But that security is temporary and fallacious; it depends upon the convenience of government for the time being, which may not be interested in the sacrifice of individuals, and in the temper of the magistrate who administers the criminal law.‡

In such a state of things, there is undoubtedly much to reform. The power of punishing for libel, assumed and exercised by the Court of King's Bench, is neither founded upon, nor guided by, any provision of

the legislature whatsoever. The assent of Parliament to it is merely negative. We assert, that there is not within the statute-book a single form of words, by which it is attempted to declare what libelling is, by which any form of degree of punishment is appointed for it, or by which it is so much as forbidden. There is no written standard, according to which the decisions of the courts are pronounced. The power rests on the sole foundation of the practice of the court of Star-Chamber, in which prosecutions for libel first commenced; and the Judges of the Court of King's Bench have all along had no other rule whatsoever for their conduct, but the decisions pronounced by that arbitrary Court, and the decisions of preceding judges who followed its example.

There are two principal sets of causes, in which Government may emphatically be considered as a party. These are, causes, for treason, and causes for political libels. The punishment, in the case of treason, which is death and attainder, is greater than that in the case of libel. But the punishments awarded in the case of libel, fine, and imprisonment for any number of years, not to mention the pillory, cannot be regarded as light ones. They may happen, and every now and then must happen, to be equal to the greatest—to involve the utter ruin and death of the individual;—death, not instantaneous, and therefore easy; but death by the slow poison and protracted torture of a dungeon. Seldom indeed can it happen, that the injury to a man's health, the detriment to his affairs the pains of confinement, do not amount to substantial confiscation and torture. To many men, the pains of confinement alone, for any considerable time, are hardly less terrible and shocking than execution itself. Less than capital in appearance, the punishment for libel is on every occasion liable to become more than capital in reality; and, under the severe sentences which have been pronounced in our own remembrance, must very often indeed, in point of actual suffering approach to it.

It is against the wrong application of the power of punishing as for treason, and the power of punishing as for libel, that society has the greatest occasion to be effectually guarded by laws. If a choice were to be given, and it were absolutely necessary for society to remain exposed to the misapplication of the one power or other, we should have no hesitation in declaring, that it is of infinitely more importance to be protected in the case of libel, than the case of treason. Of the two means of raising opposition to bad government, viz. the application of physical force, and the application of intellectual force, it is to the application of physical force that the law of treason stands opposed, and to the application of intellectual force that the law of libel stands opposed. But if the due and useful application of intellectual force were thoroughly secured, a case cannot very easily be conceived, in which any attempt to employ physical force would not be necessary, and hence improper. The accusation too, and the punishment as for treason, are something great and alarming. They figure dreadfully in all imaginations, and rouse the public to attention. Wherever despotism is not already confirmed and the public sentiments securely set at defiance, unjust punishment for treason is not likely to be often inflicted. In a comparatively rude period of society, it may be used, to a considerable extent as a means of protection for a despotism already established, which then degenerate into a tyranny. But it is in little danger of being employed, as a means of converting a free government into an absolute one. The case is exactly reversed with regard to libel. The punishment and accusation, in this instance, strike not so forcibly upon the imagination. When cases calculated to interest the public are artfully avoided, prosecutions for libel are very apt to be passed over with neglect and indifference. The truth however is, that nothing more is wanted than a habit of intimidation, produced by these prosecutions, to silence the press with regard to the abuses of government; and, after that, the road to arbitrary power is clear of almost all obstructions.

It is unfortunate that the British Legislature has adopted a very different conduct with regard to treason, and with regard to libel. The one it has defined. It has declared, in express and solemn words, what shall be punished as treason, and what shall not. The other it has not defined. It has left, as yet, altogether undescribed by words, what shall be punished as libel, what shall not. The judge, without a shadow of a law given him by the legislature, looking only to the practice of the Star-Chamber, and of his predecessors who followed the example of the Star-Chamber, makes up a rule, according to his own views, for each particular occasion. Let us attend to what the most eminent lawyers have advanced concerning the danger and mischief of leaving, in any degree of ambiguity and uncertainty, the laws on which the vital interests of the people depend;—hear their well merited and vehement praises of the legislature, for taking the law of treason out of the incurable vagueness and uncertainty of unwritten or common law,—for limiting and circumscribing it by an express form of words; and then estimate the calamity, which still remains to be removed, of standing exposed, as a nation, to punishment for a libel, while the offence has never yet been limited by any form of words, and the range of punishment may be widened or narrowed at the discretion of the judges.

\* Hume's History of England, vol. vii. p. 40.

† Burke, Thoughts on the Cause of the Present Discontents, p. 75.

‡ Speeches of Lord Erskine, vol. i. p. 261.



The following are the words of Blackstone. 'If the crime of high treason be indeterminate, this alone (says the President Montesquieu) is sufficient to make any government degenerate into arbitrary power.' We may certainly add, with equal truth, if the crime of libel be indeterminate, this alone is sufficient, if the rulers chuse, to destroy the liberty of the press. Blackstone goes on: 'And yet, by the ancient common law, there was a great latitude left in the breast of the judges, to determine what was treason, or not so.' Not only the same, but a much greater latitude, as the nature of the case implies, is now left, by the existing common law, in the breast of judges to determine what is libel, or not so. The learned judge continues—'Whereby the creatures of tyrannical princes had opportunity to create abundance of constructive treasons; that is, to raise, by forced and arbitrary constructions, offences into the crime and punishment of treason, which never were suspected to be such.' And in the same manner we may pronounce, that if ever we shall have a prince of despotical, not to speak of tyrannical inclinations, his creatures will, by the indeterminateness of libel law, have opportunity to create abundance of constructive libels; that is, to condemn and punish, not any crime, but the most meritorious actions, the just and faithful exposure of acts of misgovernment, with the ruin and destruction of the author.

What was the remedy against so much danger, from a common, unwritten, indeterminate law, respecting treason? An act of legislature, making the law *written*, precise, and unambiguous. 'But however,' says Blackstone, 'to prevent the inconveniences which began to arise in England from this multitude of constructive treasons, the statute 25. Edw. III. c. 2. was made; which defines what offences only, for the future, should be held to be treason. Thus careful,' he continues, after specifying the different provisions of the statute, was the Legislature, in the reign of Edward the third, to specify and reduce to a certainty the vague notions of treason, that had formerly prevailed in our Courts. Sir Matthew Hale is very high in his encomiums on the great wisdom and care of the Parliament, in thus keeping judges within the proper bounds and limits of this act, by not suffering them to run out (upon their own opinions) into constructive treasons, though in cases that seems to them to have a like parity of reason.

The application of all this is too obvious to require any observation. But this is a point of such vital importance, that we must be forgiven for accumulating a few more authorities. In the admirable speech which was delivered by Sir Vicary Gibbs, in the defence of Mr. Tooke, in 1794,\* he makes some valuable remarks on the mischief and danger arising from the uncertainty, from the power of unlimited extension, which belongs to an unwritten law, on the chief points liable to come to issue between governments and their subjects. 'Gentlemen,' he says, 'I will now state the authority under which this Court is founded.—I mean that statute which passed in what Lord Coke called a *blessed* Parliament, namely the stat. 25. Edw. III, stating what constitutes treason, and laying down an unerring path by which a man's conduct could be followed; and showing how a man should not be implicated in guilt without knowing what it was, which, I am sorry to say, before this statute, was a state engine for prosecutions for high treason.' After reciting the principal provisions of the act, he goes on, 'Gentlemen you will observe, before this statute passed, treason was a crime undefined by the statute law;—just as libel is now. What was the consequence? Sir Vicary tells us?—'If a man was indicted for high treason, and a jury was told so, they could not have information enough to try him.' It followed, as Sir Vicary most truly remarked, that the jury in such circumstances were necessarily dependent upon the Court. He goes on;—'And they must know,' (viz. before their verdict) 'what treason is, and must learn from the Court what it was imputed to him.' He adds, 'After that statute, they learnt from a higher authority what treason is. By this statute every branch of treason is pointed out, and therefore, that which was matter of law in the breasts of the judges became, by this statute, a matter of fact in the breasts of the jury.' He goes on;—'The makers of the statute knew what an engine prosecutions for treason were made; and in the anxiety, that the subject should not be exposed to *vague* and *loose* charges of treason, the statute goes on to prohibit any thing being considered as treason, except in the words of the statute.'

If it was of so much importance 'that the subject should not be exposed to vague and loose charges of treason,' we have already declared, and we cannot too often repeat our opinion, that it is of still more importance that writers on government, and the great principles of society, should not be exposed to vague and loose charges of libel. And if the remedy against the evils of loose and vague charges of treason, was a definition by statute of the crime; so the only remedy against the evils of loose and vague charge of libel, is a definition of libel by the legislature.

We are extremely happy to be supported in the view we have taken of the importance of such an amendment of our libel law, by so high an authority as Lord Erskine. In his speech on the motion of Lord Holland,

4th March 1811, for an account of informations *ex officio* filed by the Attorney General, he said, 'When a man is accused of high treason, he is covered all over with the armour of the law. He has a giant to fight with, when he has to encounter the whole weight and influence of the Crown; and he is protected accordingly.—Now, why should not persons accused by the Attorney-General by *ex officio* information, have analogous protections? They have the same antagonist to fight with, and why not the same armour to cover them? All the power and influence of Government are exerted equally against them; and the cases are precisely the same, except that the Crown does not fight with the weapons that are mortal; but the wounds they inflict may be desperate. Yet they not only have not analogous protection, but they are exposed to greater dangers than in cases of ordinary crimes, by the abuse of special juries. He did not mean to complain of the institution, but of want of proper regulation. He had long the greatest respect for many gentlemen who served upon them; but the most honest men were not equally fit for all trusts. They were often deeply connected with government; engaged in the collection of the revenue, and magistrates in every county in the kingdom. The list was not returned by the sheriff, but was made up by the Master in the office of the King's Bench.' Lord Erskine, on the subject of special juries goes further than we ventured to go. He says, that abuses do now exist; all that we have said is, that special juries are an instrument ready prepared for abuse; and that it is owing to the virtue of ministers, if the abuse was not perpetrated. The points as to which Lord Erskine desired to see the law of libel placed on the same footing with the law of treason, are points of great importance certainly; but the accuracy or vagueness of the law itself is a point of still higher importance.

Blackstone informs us, and informs us truly, that 'from all open attacks' upon our liberty, we are in the present state of knowledge in England, abundantly secure. It is from 'secret machinations,' he says, 'which may sap and undermine it,' that we have every thing to fear. To the same purpose, Home, in his Essay on the Liberty of the Press, informs us, that 'it is seldom that liberty is lost all at once. Slavery has so frightful an aspect to men accustomed to freedom, that it must steal in upon them by degrees, and must disguise itself in a thousand shapes, in order to be received.' He asserts, accordingly, that 'it is sufficiently known, that despotic power would steal in upon us, were we not extremely watchful to prevent its progress, and were there not an easy method of conveying the alarm from one end of the kingdom to the other. The spirit of the people must frequently be roused to curb the ambition of the court; and the dread of rousing this spirit must be employed to prevent that ambition. Nothing so effectual to this purpose as the liberty of the press, by which all the learning, wit, and genius of the nation, may be employed on the side of liberty, and every one be animated to its defence. As long, therefore, as the republican part of our government can maintain itself against the monarchical, it must be extremely jealous of the press, as of the utmost importance to its preservation.' Mr. Burke says—'Great, determined measures, are not commonly so dangerous to freedom. They are marked with too strong lines to slide into use. No plea, nor pretence of inconvenience or evil example, (which must, in their nature, be daily and ordinary incidents) can be admitted as a reason for such mighty operations. But the true danger is, when liberty is nibbled away, for expedients, and by parts.'

These opinions, which we have chosen to support, not only by their own intrinsic evidence, but by the high authority of the writers who delivered them, sufficiently imply, that of all dangers at the present day besetting our liberties, the danger of leaving a door open for the destruction of the liberty of the press, by a vague and indeterminate law of libel, is by far the greatest.

The law of libel in this country presents, indeed, a phenomenon, to which we know not that a parallel is to be found in the history of mankind. Although founded entirely upon recent and practical authority, and claiming no reverence for antiquity or legislative sanction, it is a law at utter variance with the sentiments of every class and denomination of men, both public and private in the kingdom. Even Attorneys General themselves, in the very act of arraigning some unfortunate man for a libel, never fail to declare themselves friends to the liberty of the press. Not a man, probably, could be found in the nation capable of understanding the meaning of the terms, who would not declare the freedom of the press to be one of the first of political blessings—to be that sort of security for our liberties, without which all other securities would prove vain & ineffectual. In the celebrated trial of John Stockdale, in 1790, for a libel on the House of Commons, the Attorney General endeavours to persuade the jury to bring in a verdict of guilty, 'lest a prejudice, on account of its licentiousness, should be raised against the press, and lest some, thing,' said he, 'should be done, in that paroxysm of disgust, which might

\* See the Report in Cobbet's Polit. Reg. March 13th, 1811.

† Commentaries, vol. iv. p. 350.

‡ Letter to the Sheriffs of Bristol. p. 112.—Works, vol. ii. 4to. edition.

\* Trial of John Horne Tooke, &c. taken in short hand by J. H. Blanchard, vol. ii. p. 137.

be the gradual means of sapping the foundation of that *best of our liberties*,—A FREE PRESS.\* In the trial of Mr. Perry, in 1793, the Attorney General (now Lord Eldon), after a panegyric upon the constitution, as 'a model nearly approaching to perfection,—a constitution, under which a greater degree of happiness has been enjoyed, than by the subjects of any other government whatever,' adds—'These blessings have, in a great measure, sprung from the properly regulated *freedom of the Press*; and, on maintaining that freedom on its proper principles, chiefly depends our security for the enjoyment of those blessings.'—'I never will,' he says, 'dispute the right of any man fully to discuss topics respecting government, and honestly to point out what he may consider as a proper remedy of grievances.'† The Judge himself (Lord Kenyon), in the opening of his charge to the Jury on the same trial, said—'The liberty of the press has always been, and has justly been, a favourite topic with Englishmen.... Gentlemen,' he continued, 'it is placed as the sentinel to alarm us, when any attempt is made on our liberties.'‡ Even Sir Vicary Gibbs himself (for it is necessary to have a specimen of the man whose reputation stands at present the highest for hostility to the press) declared, and we doubt not with perfect sincerity, on the trial of Mr. Perry, February 24th 1810—'A free, full, and open discussion of every measure connected with the public affairs of the country, and into the conduct and measures of government, he was far from refusing to the conductors of the public prints. An attempt to control the free exercise of this right, he should admit, would be improper and unjust. On that liberty, some of our best privileges depended. It had been instrumental, in former days, in establishing and securing our free constitution; and it might, when properly directed, be the means of preserving to us the same invaluable blessings in time to come.'§ Hononourable, however, as these declarations are to the eminent persons who pronounced them, we cannot hesitate in saying, that they are all of them at variance with the law. That liberty of the press, so uniformly extolled, the law entirely disallows. There is not a conceivable expression, passing censure upon any institution, any measure or any member of Government, which the all-comprehending law of libel places not within the verge of punishment,—of punishment short of life, and liable to any degree of severity the Judges please. The author of the Digest of Libel Law, quoting for his authorities Bacon's Abridgement and Hawkins's Pleas of the Crown, states it as the law, 'that words, if published in writing, and tending in any degree to the discredit of a man, are libellous, whether such words defame private persons only, or persons employed in a public capacity; in which latter case, they are said to receive an aggravation, as they tend to scandalize the Government, by reflecting on those who are entrusted with the administration of public affairs.'|| But if every thing that reflects on those entrusted with the administration of public affairs, if every thing tending to the discredit of any one of them be an aggravated libel,—it is absurd and ridiculous to speak of the liberty of the press. Under the pressure, however, of this law, Lord Ellenborough found himself constrained, in the case of Cobbett to which we have already alluded, not only to declare, that every thing which tends to bring the Government into disrepute is libellous, but to say, that, 'by the law of England, there is no impunity to any persons publishing any thing that is injurious to the feelings and happiness of an individual;† and, in perfect conformity with this principle, to enumerate among the different libellous passages which the writing in question contained, that which questioned the fitness of Lord Hardwicke for the situation of Lord Lieutenant of Ireland. 'He admits' (says his Lordship) this noble person to be celebrated for understanding the modern method of flogging a shoe as well as any man in Cambridgeshire. Now, gentlemen, what does this mean? Does it not clearly mean to infer, that Lord Hardwicke is ill-placed in his high situation, and that he is only fit for the common walks of life? \*\* There can be no doubt, that to pronounce a man in a high situation unfit for his office, would be disagreeable to his feelings; but if the press must not so much as insinuate that any public functionary is only fit for the private walks of life, it is but an idle mockery to tell us we have a free press. We are far, however, from blaming Lord Ellenborough for these declarations; for, upon the only ground of law, or supposed law, on which he had to proceed, we know not what else it was possible for him to declare; unless he had declared, that though such was the law, it was law which Juries and Judges had very often taken the liberty of disregarding; that, as often as they had done so, they had done their country good service; and that, in general, by executing it, they had done nothing but mischief.

Can any contradiction, then, be greater than that which exists between this law and the sentiments and practice of the nation? Is there

any man, however inclined to screw up the springs of authority, who reckons it criminal to lay before the public, expressions reflecting upon the qualifications or practices of public men? Hear Mr. Windham himself, speaking directly to this very point—'With respect to the abuse of patronage, one of those by which the interests of countries will in reality most suffer, I perfectly agree, that it is likewise one, of which the government, properly so called, that is to say, persons in the highest offices, are as likely to be guilty, and from their opportunities more likely to be guilty, than any others. Nothing can exceed the greediness, the selfishness, the insatiable voracity, the prodigal disregard of all claims from merit or services, that we often see in persons in high official stations, when providing for themselves, their relations or dependants. I am as little disposed as any one to defend them in this conduct. Let it be reprobated in terms as harsh as any one pleases, and much more than it commonly is.'\* Does Mr. Windham here teach the legal doctrine of not touching the feelings of public men? Does he not, in opposition to it, say, that they cannot be touched too harshly, when by the abuse of patronage they have acted wrong? Did Mr. Burke think it criminal to publish any thing having a tendency to bring the government into disrepute when he thus wrote? 'No man, I believe, will consider it merely as the language of spleen or disappointment, if I say, that there is something particularly alarming in the present conjuncture. There is hardly a man in or out of power who holds any other language. That government is at once dreaded and contemned; that the laws are despoiled of all their respected and salutary terrors; that their inaction is a subject of ridicule and their exertion of abhorrence; that rank, and office, and title, and all the solemn plausibilities of the world, have lost their reverence and effect; that our foreign politics are as much deranged as our domestic economy; that our dependencies are slackened in their affection, and loosened from their obedience; that we know neither how to yield nor how to enforce; that hardly any thing above or below, abroad or at home, is sound and entire; but that disconnection and confusion, in offices, in parties, in families, in parliament, in the nation, prevail beyond the disorders of any former time!—These are facts universally admitted and lamented.'† Did he regard the feelings or reputation of ministers, in a body, when he printed these words?—The ministers, instead of attending to a duty that was so urgent on them, employed themselves, as usual, in endeavours to destroy the reputation of those who were bold enough to remind them of it;‡ Did he think it wrong to defame the government, when he declared, as in the following words, that the House of Commons had become so corrupt, that he felt degraded by being placed in it?—'But, when I found,' says he, 'that the House, surrendering itself to the guidance, not of an authority grown out of experience, wisdom and integrity, but of the accidents of court favour, had become the sport of the passions of men, at once rash and pusillanimous,—that it had even got into the habit of refusing every thing to reason, and surrendering every thing to force,—all my power of obliging either my country or individuals was gone; all the lustre of my imaginary rank was tarnished, and I felt degraded even by my elevation.'§ Did he think it wrong to pour forth the most unmeasured accusations against the highest men, when he printed and published the following expressions relating to Mr. Pitt and Lord Melville?—'With a knowledge of this disposition, a British Chancellor of the Exchequer, and Treasurer of the Navy, impelled by no public necessity, in a strain of the most wanton perfidy which has ever stained the annals of mankind, have delivered over to plunder, imprisonment, exile, and death itself, according to the mercy of such execrable tyrants as Amir al Omra and Paul Benfield, the unhappy and deluded souls, who, untaught by uniform example, were still weak enough to put their trust in English faith.¶ Or, when, in the same speech, he declared, by one of the most cutting expressions which the language afforded, that Mr. Pitt, by a specific attraction, gravitated to every intriguing and rapacious character?‡ Or when he accused the same celebrated minister of sacrificing 'all the natural interests of this kingdom,' to an intriguing connexion with Mr. Benfield? 'A single Benfield,' he says, 'outweighs them all; a criminal, who long since ought to have fattened the region kites with his offal, is, by his Majesty's ministers, enthroned in the government of a great kingdom, and enfeoffed with an estate, which in comparison effaces the splendour of all the nobility of Europe.'\*\*

When the press teems every day with censures so severe as these, both on the agents and measures of government, censures published by the highest and most respected characters in the nation, who, so far from being punished, are often raised to honours and power, what is the

\* See the Speeches of Lord Erskine, vol. ii. p. 283.

† Ibid. p. 404, 405.

‡ Ibid. p. 447.

§ See Report of the Trial by Mr. Perry.

|| Digest of the Law concerning Libels, p. 5.

¶ See Report of the Trial, Cobbett's Polit. Reg. 2d June 1803, p. 854.

\*\* Ibid. p. 167.

\* Cobbett's Parl. Debates, v. 14, p. 758.

† Burke's Thoughts on the Cause of the present Discontents, p. 4.

‡ Letter from Edmund Burke, Esq. to T. Burgh, Esq. p. 38.

§ Ib. p. 54.

¶ Speech on the Nabob of Arcot's Debts, Burke's Works, vol. ii. p. 491. Ed 4to.

‡ Speech on the Nabob of Arcot's Debts, Burke's Works, vol. ii. p. 513.

\*\* Ibid. p. 316.



# LITERATURE

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public to think, when it every now and then beholds an unfortunate victim singled out for censures not exceeding, if they equal, those which are unpunished? Seldom, indeed, can it forbear to think, what, in the celebrated prosecution of Wilkes for a libel, Mr. Burke declared that he thought. 'I will not believe, what no other man living believes, that Mr. Wilkes was punished for the indecency of his publications, or the impiety of his ransacked closet. If he had fallen in a common slaughter of libellers and blasphemers, I could well believe that nothing more was meant than was pretended. But when I see that, for years together, full as impious, and perhaps more dangerous writings to religion, and virtue, and order, have not been punished, nor their authors disconnected, I must consider this as a shocking and shameless pretence. Does not the public behold with indignation, persons not only generally scandalous in their lives, but the identical persons who, by their society, their instruction, their example, their encouragement, have drawn this man into the very faults which have furnished the cabal with a pretence for his prosecution, loaded with every kind of favour, honour and distinction which a court can bestow? Add but the crime of servility (the *foedum crimen avertit*) to every other crime, and the whole mass is immediately transmuted into virtue and becomes the just subject of reward and honour. When, therefore, I reflect upon this method pursued in distributing punishments, I must conclude, that Mr. Wilkes is the object of persecution, not on account of what he has done in common with others who are the objects of reward, but for that in which he differs from many of them; that he is pursued for the spirited dispositions which are blended with his vices; for his unconquerable firmness, for his resolute, indefatigable, strenuous resistance against oppression.'

One thing there is which, in the present state of prosecutions for libel, cannot fail to command attention, viz. that the ministerial prints abound, to fully as great a degree as their antagonists, in all the vices which can adhere to the mode of censuring public men; yet it is a rare case, indeed, to see any of them punished. Let any one read the abuse which, during the present administration, has in certain prints been poured out against another eminent party in the State, for not one word of which did we ever hear that one man has ever been called to account. And what conclusion can the fair, the disinterested and intelligent part of the community form? What else, than that the law of libel is a law to punish all those who dare to speak ill of the minister; and that the liberty of the press, is a liberty to speak ill of those who are the minister's enemies?

It is sufficiently obvious, that, with regard to political subjects, and public men, the liberty of the press may be abused in two ways. The one is, when good public measures, and good public men, are blamed;—the other is, when bad public measures, and bad public men, are praised. Of these two, we should consider the last as being infinitely the worst. It is not only, beyond all comparison, the most prevalent, as being the best paid, and not at all punished: But it is infinitely the most dangerous and fatal in its operation. It is the screen by which, more effectually than by any thing else, power is concealed in that gradual progress to despotism, which the distinguished authors above quoted described as its most dangerous, and almost its only dangerous approach. And, even when nothing worse than impetuosity wields the reins, it is that by which it is chiefly upheld in its blunders, till it ripens national misfortunes into national ruin. Every thing the government performs is asserted, and with pretended demonstration proved, to be excellent. Every plausible circumstance which can be discovered belonging to it, is displayed in the most advantageous light, and fixed habitually in the public eye, while every dangerous or mischievous circumstance is carefully disguised or hidden from the view. To the great mass of mankind, whose minds are chiefly passive in the reception of their opinions, nothing more is needed to make them believe that their government is admirable, than perpetually to hear that it is so. And even upon the strongest minds, it is well known that the tide of popular opinion, if running with any considerable strength, is all but irresistible. If all the writers, then, in the pay of government, or who aspire to share in the wages of servility, have full scope to praise and misrepresent, as well as to calumniate and abuse, in the maintenance of promotion and misrule; and if those who are independent and virtuous are either prevented altogether from laying the mischief open to view, and creating a proper sense of its magnitude, or even to any considerable degree intimidated from doing so; it is evident what an opportunity is afforded to delude on, and how an infatuated people may be led on to hug their chains, and kiss the hand that fastens them on, till they not only surround their bodies, but are revetted to their necks.

Such are the fatal consequences of misplaced praise of public measures and public men, as it regards the people. As it regards princes themselves, it is that flattery, and on its most extensive scale, and in its most operative shape, which all the wise and virtuous men who have written on the interests of princes have described as their most deadly bane; as the grand seducer which misleads them from their duties; which encourages them in every weakness and in every vice; and places

and keeps them in the road which conducts both them and the people to their ruin. It is evident, therefore, that if any exercise whatsoever of the press be an abuse, its becoming the vehicle of undeserved praise of public men and public measures is an abuse; and if mischief be the ground of complaint, no other abuse presents so many and cogent reasons for being restrained by punishment. When we hear the censures, therefore, pronounced by the press, made the perpetual topic of invective and execration, while all the mischief committed by it, in shedding the poison of false praise, is regarded with approbation, we can be at no loss for the motive of such a conduct. When, of two national evils, the greatest is adopted as a favourite, while the smallest is selected as the object of concentrated antipathy, we know what to think either of the heads or of the hearts of the men who thus distribute their affections.

We have, at the same time, a just sense of the evils which arise from the abuse of censure pronounced by the press. In regard to the public transactions of public men, or their qualifications for public trusts, as we deem no praise to be an abuse but that which is undeserved, so we deem no censure. Wherever real incapacity in a public man is pointed out—wherever the real impolicy or mischief of a wrong measure is stripped of its disguise, and made to appear in its own shape, we conceive that the nation is served in the highest instance; and any thing rather than an abuse; has been affected by the press. But we readily grant, that when, by the influence of false censure, a nation is made to disapprove of a good measure, or a good minister, and to defeat the one, or deprive itself of the other, the press has been the source of mischief. There are, however, two remedies against this, whose united virtue can seldom fail to be effectual. There is, in the first place, refutation of the censure by the same channel; a grand and appropriate cure, and which, considering the force of truth, will generally prevail. And there is punishment, which, as often as a man brings an accusation which he cannot support, may be inflicted in measure and proportion.

There is, however, another danger, real or imaginary, of which certain classes of men hold up to their own eyes a colossal and hideous picture; and labour earnestly with it to appal the hearts of other men;—that is the danger of anarchy, arising from excessive censure of measures of government and public men. Now without pretending for the present to measure very accurately the degree in which the press ever has contributed to produce the evils of anarchy, or is ever likely to contribute, this we take upon us without any hesitation to say, that the abuse, in the way of censure, has far less tendency to produce the evils of anarchy, than the abuse in the way of praise has to produce the evils of despotism; and that despotism is by far the most imminent danger. It is from the praise, and not from the censure, that society has infinite ly the most to dread.

To point out the exact limits of the power of the press to disorder society by the abuse of censure, would require a minute analysis of the nature and constitution of different governments. A few obvious considerations, however, may be presented, which afford no inaccurate standard to judge by. Of those countries which have enjoyed the most of the power of censure by the press; and those which have enjoyed the least:—in which has there appeared the greatest disposition to anarchy, and in which least? The answer which the experienced of history present to us, will surprise those who have credulously lent their faith to the men who have lately been so active in traducing the application of censure by the press. The only countries in which any tolerable degree of the liberty of the press has ever been enjoyed, have been a few of the Protestant countries of modern times—England, Holland, Switzerland, and the United States of North America. Now, so far from showing the greatest tendency to anarchy,—of all countries that ever existed, these have been the farthest removed from that tendency. In what country in Europe is there so much tendency to insurrection, as in Turkey? And what other countries of Europe have the most nearly resembled Turkey in that particular? We answer—Italy; and whatever country has shared the most in that despotism which Italy exercised upon the thoughts and expressions of the people.

But the revolution of France is something which agitates the imaginations of men, and which, without allowing them time to render themselves in any tolerable degree acquainted with the facts of that extraordinary event, makes them fear and detest in the mass all things which, justly or unjustly, have been ever supposed to have had a share in producing it. The abuse of the press was carried to a great height during the excess of the French revolution;—the abuse, therefore, of the press was, they tell us, the cause of these excesses. This we consider to be that fallacy, or mistake of the judgement, which is classing and demonstrating the sophisms, Aristotle called *to pñ arrior oc arrior, non causa pro causa*. The abuses of the press which attended the excesses of the French revolution, we regard as the effect, not the cause of the public disorders. It will not be asserted, that public discontent and public insurrection were not more frequent before there was a press than since. Now, suppose that, by the progress of such discontent, the tent, bands of government had become as nearly dissolved as the wherein France at the time of the assembling of the States General; and

\* Burke, Thoughts on the Cause of the present Discontents, p 76.

any considerate man take upon him to say, that the same, or as great excesses might not have taken place had no press existed? Were there never any cruel and sanguinary revolutions, but where there was a press? It would really appear as if the terror of the French revolution had paralyzed the understandings, as well as extinguished the public virtues of a great number of men.

Mr. Burke, who, though his lights were not very steady, saw by glances a great way into the structure and play of the machine of society, has well described those turbulent spirits who, by means of the press, or by any other means, are in danger of becoming the authors of mischief in a revolution. 'A species of men,' says he, 'to whom a state of order would become a sentence of obscurity, are nourished into a dangerous magnitude by the heat of intestine disturbances; and it is no wonder that, by a sort of sinister piety, they cherish, in their turn, the disorders which are the parents of all their consequence.'\* To the prevalence, in France, of such men as these, and to the abuse of the press, has the revolution and all its evil consequences been ascribed. Now, what says Mr. Burke on this important question? 'Superficial observers,' says he, 'consider such persons as the cause of the public uneasiness, when, in truth, they are nothing more than the effect.' This is a truth of prodigious importance; of which Burke himself but too easily and too completely, at an after period, lost sight; and by his eloquence, induced too many others to follow his example. The expressions which immediately follow in the same passage are not less remarkable, nor less at variance with subsequent doctrines of the same writer. 'Good men,' says he, 'look upon this distracted scene with sorrow and indignation. They stand in a most distressing alternative. But, in the election among evils, they hope better things from temporary confusion, than from established servitude.'

There is another grievous mistake involved in this prejudice with regard to the matter of fact. It was not the abuse of a free press which has witnessed during the French revolution; it was the abuse of an enslaved press. The press was at all times the exclusive instrument of the domineering faction, who made use of it to calumniate their enemies and agitate the people; but prevented, by the terrors of extermination, all other men from making use of the press to expose their machinations and character. It was exactly that species of abuse which is committed, in different degrees, by every set of rulers in France, in England, or any where else, who allow more latitude to freedom of expression on their own side, than on that of their opponents. Had real freedom of the press been enjoyed—had the honest men whom France contained been left a channel by which to lay their sentiments before the public—had a means been secured of instructing the people in the real nature of the delusions which were practised upon them, the enormities of the revolution would have been confined within a narrow compass, and its termination would have been very different. The enlightened and intrepid author of the work before us affords an admirable passage on this subject, which cannot fail to be read with delight and instruction.

'Oui, je ne le dissimulerais pas, la France, depuis dix ans, n'a été bouleversée que par la licence de la presse, abandonnée exclusivement à quelques groupes de perturbateurs; et la France ne se régénérera que par la liberté générale de la presse, qui comprimera en tout sens la licence des perturbateurs.'

'Cette liberté de la presse, annoncée avec emphase à la tête de trois Constitutions, n'a presque jamais existé que pour la faction dominante: celle-ci donnait son symbole, l'étendait, le modifiait au gré de son caprice; mais tout homme, non affilié à la secte, qui osait penser d'après lui-même, écrire d'après la raison universelle, était traité à la Guiane, ou périsait sur l'échafaud.'

'Si la loi constitutionnelle de la liberté de la presse, avait été respectée en 1792, dans tous les hommes qu'elle devait atteindre, croit-on que la France aurait deshonorié à jamais la cause de l'indépendance de l'homme, en envoyant son Roi au supplice?'

'Si cette loi avait protégé à la Convention la masse entière des êtres pensans, et non simplement quelques hordes demagogues, qui maltraitaient l'Assemblée Nationale tour-à-tour, croit-on que la guerre de la Vendée eût pris naissance; que Lyon eût perdu ses arts, ses citoyens, et ses édifices; que par un renversement absolu de logique, on eût réuni légalement ensemble deux mots aussi contradictoires, que celui de révolutionnaire et celui de gouvernement?'

'Si cette loi avait converti de son égide, il y a trente mois, tous les hommes qui s'honoraient du titre de Français, croit-on qu'on aurait impunément abjuré la loyauté nationale en mobilisant la dette publique, que des tables de proscription, signées au théâtre de l'Odéon, auraient déporté sur des plages pestilentielles, le patriotisme, le courage, et les lumières?'

'Il est donc démontré que sur-tout depuis 1791, la presse a pu être licencieuse entre les mains des factions; mais qu'elle n'a presque jamais été libre dans celles de la masse des gens de bien.'

Such was the state of the press in France during the excesses of the revolution. The licentiousness which it displayed was not the licentiousness of freedom, but the licentiousness of slavery; and freedom would have been the most effectual cure of all its evils. What our author advances on this latter subject is not less worthy of being heard, than the facts which he brings to view in the former.

'Il n'y a qu'un moyen de tirer le remède du sein même du mal, c'est d'étendre le privilège inhérent à l'homme d'énoncer sa pensée, de manière qu'en cessant d'être exclusif, il cesse d'être nuisible; c'est de rendre la presse si libre qu'elle cesse d'être licencieuse.'

'Quelques hommes qui veulent penser seuls, sans doute pour n'avoir point de rivaux dans l'art de nuire, diront qu'il est un mode plus simple de prévenir les insurrections écrites contre le pouvoir; c'est, non de circonscire la liberté de la presse, non de l'étendre indéfiniment, mais de l'aneantir.'

'Ce raisonnement émane du suprême despotisme, et s'il m'est permis de dire toute vérité, ne mène une suprême extravagance qu'à &c.'

If men would employ a little patient consideration in forming their notions, we should not despair of getting all but a few, to join with us in opinion, that, so far from the freedom of the press being the cause of the French revolution, had a free press existed in France, the French revolution never would have taken place. It is the natural, nay, we may confidently say, the necessary effect of a free press, so to harmonize together the tone of the government and the sentiments of the people, that no jarring opposition between them can ever arise. By the free circulation of opinions, the government is always fully apprised, which, by no other means it ever can be, of the sentiments of the people, and feels a decided interest in conforming to them. As it must thus, in some degree, mould itself upon the sentiments of the people, so it feels an interest in fashioning the sentiments of the people to a conformity with its views. It is at pains to instruct, to persuade, and to conciliate. It acts not with a proud and negligent disdain of the feelings of the people. In a word, the government and the people are under a moral necessity of acting together; a free press compels them to bend to one another; and any contrariety of views and purposes liable to arise, can never come to such a head as to threaten convulsions. We may safely affirm, that more freedom of the press granted to our own country, would have the salutary effect of harmonizing, to a much greater degree, the tone of government and the sentiments of the people, and of rendering all violent opposition between them still more improbable than even at present it is. We may even go further: we may speak of that state of convulsion itself, against which so many of our contemporaries think it necessary to take so many precautions. Were that revolution, which we think so very little probable, really to happen, nothing would prove so strong a bulwark against the abuses, to which a state of revolution is apt to give birth, as the freedom of the press, so clearly established and modified by law, and the utility of its exercise so fully proved by experience, that it would be impossible for the public to be deceived in regard to the shackles which a predominant faction might desire to impose upon that freedom, or in regard to the false glosses which it would endeavour to put upon its own and other men's transactions.

That the press, too, though calculated to produce important effects in the slow progress of ages, is an instrument with which no violent and sudden changes can ever be effected, we should think abundantly evident, upon a little consideration of its very nature. This is a circumstance which did not escape the sagacity of Mr. Hume, and which, though cautious and timid with respect to government, even to a degree as Mr. Fox justly remarks, of womanish imbecility, he hesitated not to express in several of the first editions of his *Essays*. The point is so well handled by him, and his authority is so high, that we prefer delivering our sentiments upon it, in his words to our own. 'Since, therefore,' says Mr. Hume, 'the liberty of the press is so essential to the support of our mixed government, this sufficiently decides the question, whether this liberty be advantageous or prejudicial; there being nothing of greater importance in every state than the preservation of the antient government, especially if it be a free one. But I would fain go a step further, and assert, that such a liberty is attended with so few inconveniences, that it may be claimed as the common right of mankind, and ought to be indulged them almost in every government; except the ecclesiastical, to which indeed it would be fatal. We need not dread, from this liberty, any such ill consequences as followed from the harangues of the popular demagogues of Athens and tribunes of Rome. A man reads a book or pamphlet alone and coolly. There is none present from whom he can catch the passion by contagion. He is not hurried away by the force and energy of action. And, should he be wrought up to never so seditious a humour, there is no violent resolution presented to him, by which he can immediately vent his passion. The liberty of the press, therefore, however abused, can scarce ever excite popular tumults or rebellion. And as to those murmurs or secret discontents it may occasion, 'tis better they should get vent in words, than they may come to the

\* Thoughts on the Cause of the present Discontents, p. 57.

\* Hume's *Essays*, 4th edition, p. 11.



knowledge of the magistrate before it be too late in order to his providing a remedy against them. Mankind, 'tis true, have always a greater propensity to believe what is said to the disadvantage of their governors, than the contrary; but this inclination is inseparable from them, whether they have liberty or not. A whisper may fly as quick, and be as pernicious as a pamphlet. Nay, it will be more pernicious, where men are not accustomed to think freely, or distinguish betwixt truth and falsehood."

Here, for the present, we must suspend our observations. On some of the most important topics connected with the subject, we have been altogether unable to touch. We have not been able to mention any of the considerations which prescribe as well as fix, the limits within which the liberty of the press should be confined. But we promise not to lose sight of the subject. The liberty of the press is a point on which so much depends, and with regard to which there is still in this country so much room for reform, that we shall not be easily induced to remit our efforts, till that sort of legislative provision, which we have here endeavoured to describe, be at last bestowed upon the nation.

### South American Affairs.

The following is an abstract of the Official Papers which accompanied that document. They are limited in their dates to a year and a half, viz. between July, 1820, and January, 1822:—

#### LA PLATA.

The first is a letter from the Secretary of State, Mr. Q. Adams to a Mr. J. Forbes, of New York, instructing him to proceed to Buenos Ayres or Chili, according to circumstances, and pointing out to him the duties he will have to perform, or the services which it may be in his power to render. The following paragraph in this paper evinces sufficiently the object of the Government, and describes the task and requisite qualifications of its agent:—"As a citizen of the United States, the first advice I shall give you is to observe and report with all the vigilance, and discernment, and penetration, and fidelity to your country that you possess, the movements of all parties, but to make yourself a partisan to none. From the documents lately received, it is apparent that a negotiation has been some time on foot between the late Government of Buenos Ayres and France. It is well known that a negotiation of much longer standing has existed between the same Government and Portugal; nor has Mr. Ribadavia been residing two or three years to no purpose in England. To ascertain the real movements of all these parties, a neutral position, a neutral heart, and an observing mind, are indispensable. In recommending it to your attention, I would add the caution, neither to take upon trust what any man shall tell you, without asking yourself what it is his interest or wish that you should believe, nor to give more weight to conjectures than the circumstances under which they are formed will warrant." These instructions are communicated on the 5th July, 1820; and on the 2d of September, the same year, we have a dispatch from Mr. Forbes, from Buenos Ayres, in which he announces—"with pleasure a new organization of the Government, which promises great stability and character, and from whose exertions the most important reforms are daily taking place." By this change he means the appointment of Ribadavia to the head of the Government, and of Don Manuel Jose Garcia to the department of the Treasury. The following paragraph of Mr. Forbes' dispatch is important, as shewing the disposition of the Government of Buenos Ayres towards privateers who assumed their flag and compromised their character:—

"Yesterday saw Mr. Ribadavia for a few minutes, and again received an apology for his delay of the long promised conference. I took occasion to say that I was aware of his unceasing occupation in the arduous place he held, and must conform to his convenience, but that there was one subject on which I had been instructed to communicate the views of my Government, and which, by the information daily received, became most imperiously pressing, as interesting to the character of this Government, which I knew he had so much at heart. I then stated that, by late advices from the West Indies, the horrors of piracy, which has so justly excited universal indignation, were daily increasing, as well by the numbers of the vessels as by their strength of armament, and the boldness of their nefarious enterprises; that, recently, a vessel fitted out here under the name of the Confederation, had changed her name and her Commander, and was captured under the commission of Artigas, by a French frigate, and carried into Martinique, from whence the Captain and a number of the crew, being seamen of the United States, had been sent to Philadelphia in a French armed brig for trial; that all these vessels were notoriously furnished with several different commissions, and according to the privateering regulations of this Province they were to be deemed pirates; that one of them had recently fired on a Government brig of France, and killed the Commander; that I was instructed by my Government to make the strongest remonstrances on this subject. To all these observations Mr. Ribadavia replied, that this evil would no longer exist; that there would soon be given an order recalling all privateers; that he was fully convinced that the most important object with this Government is to acquire the good will and friendship of all other

Governments, and that he was determined to make every sacrifice to attain this great end. He said that Governments seated in perfect peace and security reasoned calmly on these subjects, but that this country had experienced so many difficulties in its struggle for Independence, that the Government had been compelled to adopt the strongest measures against the Spanish commerce; 'but, said he, 'this is now all finished.'

On the subject of the piracies practised under the Independent flag Mr. Forbes had an interview with the Chief Minister of State, Mr. Ribadavia, on the 17th of September, 1820, from the minute of which the following interesting passages are extracted:—

"I then continued the forcible expositions in the instructions to Commodore Perry of the evils and horrors of the system of piracy, as practised by vessels carrying various colours of the South American Provinces, and stated to him that the United States would not acknowledge as legal any commission granted in blank; which he said was perfectly just, and continued by saying, that he was fully sensible of all the injury which had been done to the cause and character of these Provinces, and deprecated as much as any one the atrocities which had been committed on neutral commerce; that the Government had determined on an entire change of system, and that, probably, this day a Decree would be drawn up, revoking all privateer commissions, and ordering them all to return within a given period; but this decree would be communicated to me, when it would be seen if any thing more efficacious remained to be done within the scope of the Government's authority. I observed that the decision of the Government was in perfect union with the whole system now going into operation eminently wise and politic, and would have a most important influence on the opinion of other nations in regard to this country: that as nothing had so much operated to damp the enthusiasm of my countrymen in favour of South American liberty as the enormities committed under the patriot flags, so nothing would so effectually tend to re-animate their good wishes as the suppression of those crying abuses. I stated to the Minister the measures adopted by Congress to repress the predatory system, and particularly the Act of the 20th of April 1815, of which he requested and I promised a copy. I next read from the instruction of the 12th of July 1820, the remarks on the subject of commercial preferences, and the magnanimous feeling with which the Government of the United States disclaimed any wish to barter an acknowledgment of the independence of these provinces for any exclusive advantages in their commerce; at the same time their firm reliance that no such exclusive privileges would be granted to other nations to the prejudice of the United States. On this Mr. Ribadavia assured me that it was the firm determination of this Government to grant no exclusive privileges of commerce to any nation whatever, and that I might communicate this decision to my Government, with an assurance that the most complete reliance might be placed on it. The Minister proceeded, that his most decided opinion was, that no measure whatever ought to be taken to solicit an acknowledgment of the independence of those provinces by any Government; he expressed himself in flattering terms of his good will towards me personally; and added, that it would be an abuse of the confidence I had evinced towards him, if he were to engage me to make any representations to my Government tending to that end; and that he was much less disposed to take any such measure towards any Government of Europe. That such proceeding must operate, if unsuccessful, to the humiliation of the provinces; and, if successful, to mislead the people by persuading them that such recognition was all sufficient to their political existence and happiness; that, in his opinion, the most efficacious system would be to establish order and wise institutions of government throughout the provinces, and to shew themselves worthy of the fraternity of other nations, when it would be voluntarily offered; that such voluntary recognition, in every point of view, would be much more beneficial than that protection which should result from a compromise of honour or interest;—that he had told his countrymen, *de haute voix*, his sentiments on the important topic of self-government; that much was to be done, but that he hoped to see the successful progress of a sound system of domestic and foreign policy."

The following facts or observations regard the Government of Buenos Ayres and the state of Brazil. The dispatch of the American Agent, from which they are extracted, is dated on the 26th of October last:—

"In the mean time, Ribadavia and Garcia, firm as they are enlightened and patriotic, are pursuing the even tenour of their way. They have added public credit to the other sinews of war which this province before possessed, by repaying with great punctuality in gold several loans (a thing without example in the history of this revolution); they enjoy now to so great a degree the confidence of the community, that I believe they could borrow to any reasonable amount, for an immediate exigency. It is said, also, that an entirely new system of finance is agreed on, and will appear in a few days. By this tariff, as it had been represented to me, the duties, with a very few exceptions, will be *ad valorem*, and will vary from 5 to 15 per cent. Every possible measure is taken to prevent smuggling, and public opinion and morality are cherished by the Government. If, therefore, Buenos Ayres, in the darkness of her most gloomy period, public sentiment paralyzed

by deadly dissensions, and public resources completely dilapidated, has been able to struggle successfully against the machinations of the other provinces, it is not too rash to expect that when she fights with a two-fold armament of reason and force, seconded by a vigorous public credit, the victory must eventually be hers. The most deplorable result, however, of these continued agitations, is the necessity of continuing an onerous military establishment.

"The most alarming state of agitation prevails in the neighbouring kingdom of Brazil. It was some days since confidently reported, on the authority of Capt. Mac Lean, of the British Government brig *Beaver*, in six days from Rio to Monte Video, that Prince Don Pedro was to have been crowned King of Brazil on the 13th of the present month. Subsequent accounts contradict this fact, and it is now no longer believed. It is, however, well known that the public mind there is in a most feverish state; and should civil war burst forth, it would be the signal for the emancipation of a numberless horde of slaves, and the most horrid scenes of blood and devastation would overwhelm the kingdom, and eventually threaten these provinces, where it would find easy victims in the scanty white population here. The progress of this all-destroying flame could only be arrested by the Indians, and, in such a conflict, this delightful country would be totally lost to civilisation."

#### CHILE.

On the state of this province, and the political events of which it was the theatre during the course of last summer, to which the dispatches of Mr. Prevost refer, nothing new or interesting is given.

#### PERU.

The only paper respecting this province, contained in documents that accompanied the President's Message, is a translation of the act of independence, which has been already published in this country.

#### REPUBLIC OF COLUMBIA.

There is an important dispatch from Mr. Brent, *Chargé des Affaires* of the United States, dated Madrid, July 10, 1821, giving an account of the temper of the Spanish Cortes and Executive respecting the privileges of the American provinces, and of the plan proposed for satisfying their demands. The following paragraph is worthy of attention:—

"On the 9th instant, I received a note from Mr. Ravenga, one of the Commissioners of Bolívar, requesting an interview with me (copy marked D.); to which I immediately replied (copy marked E.), stating that I would receive him that very evening.

"In this interview he spoke of his mission to Spain; he said, that when he left Columbia, he had no idea, of meeting with the least obstacle; he had calculated to a certainty that his object would immediately be accomplished. He spoke of the ignorance of this country of the real state of Spanish America, of their illiberality, and their prejudices, with warmth, and particularly so of the expression of the King, in his speech respecting Spanish America.—He calculated, he said, upon the friendship of the United States, to promote the independence of the Republic of Columbia; he had a full conviction that he could rely upon it. Mr. Monroe, when Secretary of State, had informed him that all the Ministers of the United States in Europe had instructions to advance the acknowledgment of their independence by Foreign Powers.

"I sympathised with him in the unpleasant situation in which he was placed, and feared that the sentiment in Spain was not as favourable as could be desired. He was perfectly justified, I said, in relying upon the good disposition of the United States. It was their interest and their sincere wish, that the acknowledgment of the independence of Spanish America should be accelerated. The United States had not only been more forward than any other Power, in publishing to the world their wishes with respect to her, but had accompanied them with actions which certainly afforded the best proof of their sincerity, and among them I adverted to the Message of the President to the Congress of the United States, at the commencement of its last Session, in which, alluding to the proposed negotiation between the late Colonies and Spain, the basis of which, if entered upon, would be the acknowledgment of their independence, he says, 'to promote that result by friendly counsels, including Spain herself, has been the uniform policy of the Government of the United States.'

"The friendship of the United States, he said, was very grateful to the Republic of Columbia, and he hoped and expected that at the commencement of the next meeting of Congress, the acknowledgment of its independence would be decided upon; the moment had arrived when all the Powers of the world would see the propriety of it. He calculated that the United States would be the first to take this step; hoped to see a confederacy of Republics throughout North and South America, united by the strongest ties of friendship and interest; and he trusted that I would use my exertions to promote the object he so much desired.

"I heartily concurred with him in the hope that all Governments would resolve to adopt a measure so comfortable to justice; joined with him in the agreeable anticipations of the progress of free principles of Government, of the intimate union and brilliant prospects of the States

of our new world. I presumed, I said, it was not necessary to bring to his mind the high interest felt by the United States in their welfare—an interest in which I deeply participated, and desired, as much as he possibly could, the happiness of our Spanish American brethren. What would be the determination of the United States at the period of the commencement of the Congress, it was impossible for me to foresee; whether they would consider it a reasonable moment for doing that which was so much desired, was a point I could not resolve.

In this interview Mr. Ravenga confirmed to me what I had previously learned, that his instructions do not authorize any terms short of the acknowledgement of the independence. I observed to him that I presumed no arrangement would be made under them that might have an injurious bearing on the commercial interests of the United States. To this his reply was, that none would be entered into by the Republic of Columbia, with Spain, that would not be perfectly reciprocal."

This statement is followed by a letter, dated Washington, Feb. 29, in 1821, from Don Miguel Torres, Agent of the Republic of Columbia to the United States, to the Secretary of State, Mr. Adams, requiring the recognition of Columbian Independence.—In a subsequent paper, from the pen of the same agent, the following description is given of the power and capabilities of Columbia as a reason why its independence should be recognized, and its friendship courted:—

"With respect to the ability and capacity of Columbia to maintain its independence, no well-founded doubt can arise upon that point, if we consider on one hand the great population of the Republic, which exceeds 3,600,000 souls, the extent of its territory, its natural and artificial resources, and its situation; and on the other, the great military talent displayed by its generals and officers, and the discipline and valour manifested by its troops on all occasions, but particularly in the celebrated battles of Boyaca and Carabobo, in the capture of St. Martha, defended by seventeen exterior batteries, all taken by assault, and the reduction of the fortresses of Carthagena and Cumana.

"Some idea may be also formed of the degree of splendour, power, and future prosperity of the new Republic, by considering it placed in the centre of the universe, with an extent of coast of 1,200 miles on the Atlantic, from the Orinoco to the isthmus of Darien, and of 700 miles on the Pacific Ocean, from Panama to Bahia de Yumbé; and exempt, at all seasons, from any of those dreadful hurricanes which cause such disasters in the Antilles, in the Gulf of Mexico, and in other places.

"The great canals which are formed by the river Orinoco and its tributary streams, the Suila, with the lake of Maracaybo, the Magdalena, the Cauca, and the Atrato, which all empty into the Atlantic, render Columbia the most favoured part of the universe for interior navigation; and, by a union of all climates, unites also, in great abundance, the productions of the three kingdoms of nature.

"Agriculture is further advanced in Columbia than in any other part of Continental America, formerly Spanish; and its products of exportation, which consist chiefly of cocoa, coffee, indigo, tobacco of Barinas, and some cotton, are of a quality superior to those of other countries, except the cotton. With respect to the precious metals, Columbia is inferior neither to Mexico nor Peru, with the advantage that their discovery is more easy and less expensive. She also unites, by prolonged canals, two oceans which nature had separated; and by her proximity to the United States and to Europe, appears to have been destined, by the Author of Nature, as the centre and the empire of the human family."

#### MEXICO.

An account is given of the late transactions in this Viceroyalty, and an outline produced of the Constitution proposed by Iturbide.

To conclude these documents, we find a long dispatch, and inclosures, volunteered by an American citizen at Mexico, dated the 23th of October, 1821, containing minute and circumstantial details of the late Revolution in that portion of Spanish America. We have only room for the following paragraph:—

"Before the insurrection of the year 1810, the kingdom contained 6,000,000 of inhabitants, and it is worthy of remark, that Providence has been no less lavish in the distribution of her gifts as respects mankind, than in the fertility and production of the earth; the natives of this country, not excepting even the Indians, being endowed with a quickness of perception and ability to acquire and make themselves masters of the arts and sciences, that is very notable, and far exceeds that of the inhabitants of Old Spain, and, perhaps, many other countries. At the above-mentioned period, the kingdom may be said to have been at its acme of prosperity: the Royal revenue exceeding 20,000,000 dollars, and the money coined at the mint of this city upwards of 28,000,000 annually; it has, however, ever since been on the decline, in consequence of the devastations committed by both parties in the long and cruel war carried on between the Europeans and Americans; so that the population cannot now be computed at more than 4,000,000; the revenue at more than half what it was; and the money coined yearly at from 5,000,000 to 8,000,000: this year it will probably not exceed 4,000,000."



# ASIATIC DEPARTMENT.

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## Saugor Island Society.

At a General Annual Meeting of the Proprietors of the Saugor Island Society, held at the Town-Hall on Monday the 2d of September 1822.

On the motion of Captain Pat on, seconded by Mr. Sutherland, Mr. Trower was called to the Chair.

The following Report was then presented to the Meeting by the Committee of Management, and ordered to be read by their Secretary.

*To the Gentlemen Proprietors of the Saugor Island Society.*  
GENTLEMEN,

We are now convened in the fourth of the Annual Meetings, which the roles of our association require should be held for the purpose of the proceedings of the Committee of Management undergoing the inspection of the Proprietors at large, and for the election of substitutes for those members of the Committee who retire by rotation. These are Radakant Deb, and R. Robertson, Esq.

Mr. Prinsep, the late Chairman of the Committee, whose term of duty would otherwise have now expired, resigned in the course of the year, and Mr. McClintock was elected in his room as a member of the Committee. Owing to this circumstance only two vacancies now exist in the Management.

It is on this occasion the duty of your Committee of Management to bring to your notice the proceedings and occurrences of the past year, and to report generally on the progress of the Society; its prospects, and the objects to which its resources have been directed.

From the Report of the Committee read at the last General Meeting, you will have been led to expect, that the operations of the Society would be conducted with an economy suited to the reduced state of its funds, and that every practical retrenchment would be effected. This expectation your Committee ventures to assure you, you will find fulfilled.

Consistent with the objects noticed, the Stations at Cox's Island and Light House point have been abandoned, and the operations of the Society confined to the station at Mud Point. At this Station the Mugs entertained by the Committee, have cleared 1,774 Beegahs on contract, at the favorable rate of 3 1 Rupees per Beegah. This rate allows, for the expenses of houses, fresh water, and protection from Tigers. Former accounts of the Institution shew the charges under these heads to have been very heavy; the cheapness at which the above land has been cleared, and generally the advantage of conducting the operations of the Society, by contract, may be estimated by this fact. In the two preceding seasons the cost of clearing 1000 Beegahs was Sicca Rupees 20,000.

The Committee is aware that a favourable idea cannot be entertained of the progress of the Society, if estimated only by the quantity of land which was embanked and brought into cultivation during the past year at Mud Point. The operations of the Society have not been solely confined to this. The number of Tanks has been increased, and from this circumstance an accession of Settlers may be confidently expected. The want of this first necessary of life has been found an insuperable bar to the establishment of Resident Cultivators, and it may be reasonably expected now, that a sufficient supply of fresh water is secured at Mud Point, many new Settlers will be induced to establish themselves at that station on terms favorable to the Society. It is not irrelevant here to notice, that in arranging with such settlers your Committee proposes to stipulate for the return of moderate rents after a given period. It appears equitable that Tenants who may receive lands already fit for cultivation, should pay a yearly rent after the expiration of three years, and that those who be at the cost and labour of clearing land, should be chargeable with rent at the end of seven years.

In the report of the Committee for the past year, you were informed that it was in the contemplation of the Government, to conduct a Road from Mud Point to the New Anchorage, for the

purpose of establishing a Dawk communication with the New Anchorage. The line through which this road will pass, has been completed from the cultivated lands in the neighbourhood of Rangasoolah to Dog's Creek, being a distance of 15 miles. Of these, six were cleared at the expence of Government, and the residue at that of the Society and its Grantees,—the Calder Gunge Company, and Shikarpoor Society.

For the construction of a Bund or raised road through the line thus cleared, the Committee on the part of the Society has entered into another contract with the Government at the rate of 1,000 Rupees per mile. The completion of the Bund has been retarded by the early commencement of the rains. It is however in a state of forwardness, and at an early period after the subsiding of the rains, the Committee doubts not the Bund will be completed to the New Anchorage.

From the accounts now submitted to the Meeting, it will be seen that the total disbursements of the past year is Sicca Rupees 27,423 13-9. The balance of the Society's funds on 1st September 1822, is Sicca Rupees 71,688-10 4, of which Sicca Rupees 65,000 are secured by Government Paper.

Your Committee thinks it right to notice two items, by which the resources of the Society during the past year have been aided. The first is Sa. Rs. 1,488 2 7 realized by the sale of Fire Wood, a sum which nearly covers the expence of cutting. Your Committee indeed is sanguine that the accounts under this head will in the ensuing year shew a net profit. The Committee apprehends that hitherto the local Officers of the Society have not bestowed sufficient attention to this source of gain. But from the zealous attention of the present Superintendent at Mud Point, and the abolition of the Town Duties on Fire Wood, a favorable result may be confidently expected.

The Second item to which your Committee wishes to call your attention, is Sicca Rupees 1,200, paid by the Gentlemen to whom the rents leviable from the temporary occupants of the soil, where the Fair is held, were for the last year granted in farm. Your Committee expects that the accounts of the next year will shew a more favorable item under this head. In making this arrangement your Committee were influenced by two motives:—

1st. To assert and secure the right of the Society,—2dly, to prevent the unwarrantable abuses and extortions which had been committed by numerous Sunyasis who had been in the habit of levying arbitrary exactions from the retailers of ware's and others resorting to the Melah. These Sunyasis however have not failed in attempts to disturb the rights of the Society. As a last resort, they have presented a petition to the Supreme Government, which through the Board of Revenue has been referred to your Committee for reply and explanation. The reply will be found recorded in your Committee's proceedings of the 12th April last.

To obviate misunderstandings, your Committee think it right to notice in this place, that the right of collecting the rent in question is in no way connected with the Temple of Kopeel Dev which is very remote from the spot where the Fair is held. Your Committee strongly disavows any wish or intention of disturbing the occupants of that Temple in the full enjoyment of the same and of every appending right.

It has been hinted that some change has taken place in the superintendency at Mud Point. After the favourable mention of Mr. Maclean in the report read at the last Meeting, it is with concern that your Committee notice, that during the past year they did not experience from Mr. Maclean that ready attention to the interest of the Society for which they had hoped. The opposition of Mr Maclean to the objects of economy and retrenchment, which it was desired to effect, compelled your Committee to dispense with his services. The adjustment of his accounts has since become the subject of discussion, and there is reason to apprehend that a small sum improperly charged by him to the Society, will not be recovered without a recourse to law.

As inseparably connected with the interest and success of the Society, it is proper that notice should be taken of the progress of those to whom grants have been made.

Mr. Palmer has continued his operations on Gunga Saugor with unabated activity; his embankments have been extended and improved. The number of his Tanks has increased; the culture of the Cocoa Nut has been successfully introduced, and other useful experiments made.

The Shikarpoor Society has not been less active. Of their grant large tracts on both sides of the Island have been cleared; A considerable capital has been expended in excavating Tanks for fresh water, which have been judiciously distributed. This Society has already 180 Settlers, and if it does not relax its exertions, an accession may be expected.

The activity of the Calder Gunge Company has been equally conspicuous.—That Association has, during the past year, cleared and embanked 600 Beegahs, and has at present 800, exhibiting a thriving crop of Rice. The supply of fresh water at Calder Town is also very encouraging. A large Tank, excavated during the last year by this Company, is now full of rain water. Independent of this, a new Tank, which previously existed, contains a large supply of excellent water. This Company has also improved a Band, which it had before constructed across a Creek, by means of which an abundant stock of water, adapted for cooking purposes, is preserved. Numerous trees have been planted, and the culture of Vegetables successfully introduced at Calder Town.

The Committee is happy to report that during the last year, deaths amongst the Settlers, which may be ascribed to the insalubrity of the Island, have been few, and that only one person has been destroyed by a Tiger. This casualty occurred at Light House Point, where one of the Society's Elephants had been allowed, by neglect, to remain till the fair season had passed. The man alluded to was one of a small party in charge of the Elephant, and was in the night time carried away by a Tiger, whilst passing from one hut to another. The Tiger entered the stockade by a gap which had been neglected.

In the report of the last year you were informed that the Society had obtained a decree of Sica Rupees 5,168 2 10 against the late Ramjoy Kur, and another who was his surety for the performance of his contract. The opposite party have preferred an appeal against this decree, and the case is now pending in the Provincial Court.

The Committee regrets that a loss has been sustained by the Society by the death of one of the Elephants.

In conclusion, your Committee deems it its duty to say a few words on the general prospects of the Society.

These, it is hoped, will be found, notwithstanding the reduction of our finances, more promising than they were at the time of the last meeting. There are several circumstances to the results of which we may look forward with satisfaction. The construction of a Dawk Road through the Island; the increase of Tanks for fresh water; the repeal of the Town Duty on Fire Wood; the reduction of duty on Charcoal; the removal of serious obstructions which were experienced in passing these articles into town. These are events which it is obvious must have influence in promoting the objects of the Society. That the effects of this influence will suddenly manifest themselves in a very encouraging degree, it would be too sanguine to pronounce; your Committee, however, notwithstanding the waning state of your finances, does not despair; it anticipates with confidence that that part of the Island which is North of Dog's Creek will at no distant period be cleared by the labour of Resident Cultivators, and should that event be accomplished, the funds of the Society will not have been expended in vain, nor need the most desponding, despair of ultimate success. The expanse of forest extending Southward to the Sea will no doubt gradually yield to the industry of an increasing population stimulated by self-interest

(Signed) J. C. C. SUTHERLAND.

Chairman to the Committee of the Management.

After the Report was read on the motion of Mr. Mathew, seconded by Baboo Siberishna.

Resolved.—That the Meeting approves of the proceedings of the Committee of management, as set forth in the satisfactory report now read, and that the same be published in the Newspapers for general information.

That the accounts laid before the Meeting of the Disbursements and Receipts of the Society for the year last past appearing correct be passed accordingly.

Resolved, That Mr. H. Mathew and Maha Raja Rajkissen Babadoor, be elected Members of the Committee of management in the room of Mr. R. Robertson and Baboo Radakant Deb, who retire in rotation, and that Mr. A. Colvin be elected in the room of Mr. L. A. Davidson, who has tendered his resignation.

Resolved.—That the Thanks of the Society are highly due to Mr. Sutherland for his zeal and attention to the interests of the Society, for his services as Chairman to the Committee of Management during the period he has filled that situation, and is accordingly requested to accept of the best thanks of the Society.

Resolved.—That the Thanks of the Meeting be given to the Secretary, for his zealous attention to the interests of the Society.

Resolved.—That the Thanks of this Meeting be conveyed to C. Trower, Esq. for his able conduct in the Chair.

(Signed) C. TROWER, Chairman.

### Ship Launch.

On the afternoon of Tuesday, the 3d instant, was launched from the Yard of Mr. Lackersteen, late Messrs. J. Thomas and Co. at Howrah, a Vessel of 550 Tons, built under the inspection of that able Architect, Mr. Montgomery. After the usual ceremony of the occasion, she was named the VIRGINIA; and the beauty of her model, solidity of workmanship, and comfortable accommodations, were unanimously acknowledged by an extensive concourse of spectators; while the general style of excellence in which she is finished, efficiently displayed itself, as she majestically glided into her destined element, amidst the cheering acclamations of the observing multitude.

Shortly after the Launch, the gentlemen who had witnessed it, partook of an elegant repast with the hospitable Builder, whose liberal spirit of kindness received the due meed of applause from all present.

### Births.

On the 4th instant, the Lady, of W. P. MUSTON, Esq. of a Daughter.

At Garden Reach, on the 3d instant, the Lady of ROBERT W. POE, Esq. of a Son.

At Vellore, on the 9th ultimo, the Lady of ENSIGN SAYERS, of a Son.

### Deaths.

On the 1st instant, Miss JANE EDMOND, aged 2 years and 9 months.

On the 30th ultimo, Master JOHN GOULD, aged 10 years.

On the 29th ultimo, Mrs. SARAH WARD, Wife of Mr. JOHN ENOWS WARD, aged 22 years, 1 month and 12 days.

Lately, at the House of J. HORTON, Esq. Kedgeree, Mrs. SEAGROVE, relict of the late Lieutenant SEAGROVE, of the Royal Navy. This ill-fated Lady had the misery of losing her Husband and eldest Son of 5 years of age, within 10 days of her own death. Two Children, one an Infant, are thus left Orphans; but the Subscription which was collected for Mrs. SEAGROVE, amounting to about 5000 Rupees, will no doubt be made over for the benefit of these unfortunates.

At Kalndghee, Madras, on the 1st of July, after a distressing and painful illness of 8 days arising from Epidemic Cholera, which he bore with great manliness and resignation, Lieutenant DUPRE BRABAZON, of the 13th Regiment of Native Infantry, attached to the 2d Battalion Pioneers, the Son of WALEOP BRABAZON, Esq. of the County Louth of Ireland.

At Madras, on the 14th ultimo, Mr. HENRY BOYLE, late Livery Stable Keeper, on the Poonamalle Road—leaving a disconsolate widow, two children, and a large circle of relations and friends, to deplore his untimely loss.



**A Case of Importance to Tradesmen.**

COURT OF REQUESTS, CALCUTTA, AUGUST 29, 1822.

STEWART AND CO. *versus* BATHIE.

The Plaintiffs brought their action against the Defendant, who is an Attorney of the Supreme Court, for the payment of the sum of Sicca Rupees Three hundred and Three, (Vide Note 1st) under the following circumstance.

A Gentleman of the Civil Service (since dead) was indebted to the Plaintiffs the above sum; and previous to leaving Calcutta, the deceased called upon the Plaintiffs, and returned to them their Bills, saying they were all correct and that he would leave instructions with the Defendant to pay the amount on the proceeds of his effects being realized from Messrs. Tulloh and Co.

The Defendant (in the interval between the deceased's having stated as above, and his having received the proceeds of his effects from Messrs. Tulloh and Co. to the amount of upwards of 12,000 Rupees on the 15th January 1818) signed the Plaintiff's Bills with his initials and wrote on the back of the accepted Bills, "Mr. Bathie will send Messrs. Stewart and Co. the amount of Mr. W.'s Bills in about a month. (Vide Note 2d)"

The Plaintiffs accordingly applied to the Defendant for the payment of his engagement about the period they supposed he would realize the proceeds of Mr. W.'s property from Tulloh and Co. but their Sircar was told to come in "another month." The Bills were again given to the Sircar who reported that the Defendant was gone to Benares, where he remained sometime. On the Defendant's return to Calcutta, the Plaintiffs applied to the Defendant for payment of Mr. W.'s Bills agreeably to his engagement, but were refused by the Defendant, who stated, that he was not responsible for them.

The Plaintiffs immediately had recourse to their Attorney at Law for advice, who said, that as the consideration was not expressed for the Defendant having undertaken the payment of Mr. W.'s Bills, he was of opinion that the Plaintiffs could not recover. It was observed that the consideration could be proved by Messrs. Tulloh and Co. who had paid the Defendant, it now appears, on account of Mr. W. upwards of 12,000 Rupees, (Vide Note 3d) but it was said that parole evidence was inadmissible (Vide Note 4th)

The Plaintiffs still thinking it was impossible, but that after an undertaking on the part of the Defendant, under such clear and strong circumstances, he was in equity and conscience bound to pay the sum; they determined to try the issue before the Court of Commissioners for the Recovery of small Debts, as the accepted and guaranteed Bills by the Defendant were within the cognizance of this Court.

It was submitted on the part of the Plaintiffs, that they had established sufficient proofs of the Defendant's hand-writing in what was written on the Bills; and his admission of the same subsequent to the period of his receiving the money, (written with ink, and after account had been received of the decease of Mr. W.) on account of Mr. W.

- (1.) Consisting of three Bills.
- (2.) Two of the Bills were marked in pencil F. B. by the Defendant, the third Bill only had the above written upon it, but no F. B.

(3.) The Defendant stated to the Court, that he had no interest in the matter of the Bills whatever; that he did appropriate part of the funds here mentioned, according to the instructions of Mr. W. and that after so doing he paid the balance, amounting to Sicca Rupees 7943, rs. 14 annas 3 pie into the hands of Messrs. Alexander and Co. the Agents of the deceased, in January 1818. He consequently referred the Plaintiffs for payment, on their demand, after his return from Benares, to Messrs. Alexander and Co.

**(4.) EXTRACT FROM EAST'S REPORTS, *VIDE MOORE'S INDEX*, p. 340.**

No person can by the statute of frauds, be charged upon any promise to pay the debt of another, unless the agreement upon which the action is brought, or some note or memorandum thereof, be in writing; by which word agreement must be understood the Consideration for the promise, as well as the promise itself; and therefore, where one promised in writing to pay the debt of a third person, without stating on what consideration, it was holden that parole evidence of the consideration was inadmissible by the statute of Frauds; and consequently such promise appearing to be without consideration upon the face of the written engagement, it was *judan pactum* and gave no cause of action. *Wain v. Walters*, 5 E. R. 10.

from Messrs. Tulloh and Co. in a note to the Plaintiffs, dated the 14th October 1818—"I would wish you to understand that what is written on the back of your Bills by no means amounts to any thing like responsibility on my part." Had the acceptance on the face of the Bills and the promise on the back to pay been in any other person's hand-writing than the Defendant's, he would of course have denied it in this Note.

Mr. MACTIER, (the Head Commissioner) asked the Defendant, if the writing on the Bills, (showing them to him) was his hand writing or not?

DEFENDANT.—I do not recollect (Vide Note 5); it is now upwards of four years ago.

Mr. MACTIER then shewed him his note of the 14th October, 1818 and asked if that was his hand writing?

DEFENDANT.—Yes.

Mr. MACTIER observed that it was extraordinary that he did not know his own hand writing when he saw it on the Plaintiff's Bill; and since the note which he acknowledged to be in his hand writing had reference to those accepted Bills and his promise to send the Plaintiffs the money, why did not he then disavow this writing if it was not his? and why should he now in the face of a note which he acknowledged to be his hand writing not be as well recollected in the one as the other?

The Defendant was then sworn and the following questions were put to him by the Commissioner:

Q. Did you in consequence of any written or verbal order from Mr. W. have any communication with Messrs. Tulloh and Co. regarding the sale of Mr. W.'s (the deceased's) property, and was it by your order that they sold it?

A. I had no authority from Mr. W. nor was it I who authorized the sale.

Q. Did you receive any specific instructions from Mr. W. to pay the Plaintiff's bills or any other Tradesmen in Calcutta?

A. I did not.

Q. Had you any authority in writing to receive from Tulloh and Co. the amount Sales of Mr. W.'s property.

A. None.

Q. How did they take upon themselves the payment of Mr. W.'s property to you without your having authority from him to receive it when you did not place the property under their care nor give any instructions regarding the sale?

A. Messrs. Tulloh and Co. knew our connexion, and having confidence in my verbal representation, I suppose, paid the money on my receipt.

Mr. MACTIER then observed that there was no date to what Mr. Bathie had written on the back of the Bills promising to send the money to the Plaintiff in the course of a month; and it did not appear that Messrs. Stewart and Co. were deprived of their recourse against Mr. W. or his property, by what the Defendant had done. The Plaintiffs observed that altho' they could not establish the date to the satisfaction of Mr. Mactier, nor that the Defendant had deprived them the means of getting payment from Mr. W. previous to his proceeding to sea, yet it was evident from the case that they might have attached property and were lulled into inactivity and security by the Defendant's conduct.—Non-Suited with Costs.—*Harkaru*.

(5.) The Defendant acknowledged the initials F. B. on the two Bills to be his writing, as a Memorandum, that they had been seen; Mr. W. being ill in bed; but he could not swear to the writing on the third, as it looked like the writing of the deceased.

To elucidate this still further, we give some Extracts, from Messrs. Stewart and Co.'s English Copy of their Sirkar's book for 1817—Under date the 28th November, Bills presented—"E. W.—318, 685 3541 kept" corresponding to the Nos. of the three Bills produced in Court. By an official document produced in evidence it appears that Mr. W. sailed from the New Anchorage on the H. C. Ship *STREATHAM* on the 6th December. In the same Sirkar's Book under date the 13th December we find—"E. W. 318, 685, 3541, a month." These are also the identical Nos, that were produced in Court—and the Note—"a month" corresponds with the promise on the back of the Bills—"about a month;" from which it was presumed that either Mr. Bathie's written or his verbal promise was made on the 13th of December or a full week after Mr. W. had sailed from the New Anchorage.

The Sale of the effects by Messrs Tulloh and Co. seems to have taken place about the middle of December, as the first payment of the proceeds to Mr. Bathie appears by their books to have been made on the 20th December.

**Bombay General Orders.**

BOMBAY CASTLE, AUGUST 1, 1822.

The Hon'ble the Governor in Council is pleased to direct that the second dram permitted to be drawn by European troops, at Garrison stations during the monsoon, be discontinued, the easy rates of the Canteen System of Supply, making the issue unnecessary; and with a view to ensure to the European troops generally the benefit of Government liquor, the Commissariat is authorized to issue to European troops at Field Batta stations liquor upon indent at the rate of Rupees 2 2 per Gallon to be retailed at 32 reas per dram upon the principle of the Canteen Regulations.

BOMBAY CASTLE, AUGUST 3, 1822.

The Honorable the Governor in Council has derived the greatest satisfaction from a report of the conduct of Jemadar Bewjee Powar and Havildar Luximon Sirkee of the 2d Battalion 9th Regiment Native Infantry in refusing a bribe of four thousand Rupees offered to the former, and of three hundred Rupees to the latter, by one Seedjee Bhattee, Borewawekur, who had been seized as concerned in the late disturbances caused by Banditti in the Southern Conkan, in order to release him from custody.

As a reward for their fidelity the Governor in Council is pleased to promote Jemadar Bewjee Powar to Subadar, and Havildar Luximon Sirkee to Jemadar, and to direct that they be considered as supernumerary Subadar and Jemadar until vacancies offer for them in their own Battalions.

BOMBAY CASTLE, AUGUST 5, 1822.

The honourable Mountstuart Elphinstone, Governor of the Presidency of Bombay and the Territories subordinate thereto, being about to proceed to the Deccan, is pleased to declare in Council that during his absence from the seat of Government, he will exercise all the powers which are vested in him by law when in Council at the Presidency; the different authorities in the Deccan, Civil and Military, are, therefore, hereby required to yield ready and implicit obedience to all such orders and instructions, as the Honorable the Governor may deem proper to issue.

The administration at the Presidency will, in the Governor's absence, be conducted by the remaining Members of the Government, His Excellency Lieutenant General the Honorable Sir Charles Colville G. C. B. officiating as acting President, and as such to exercise the accustomed Military command of the Garrison, and the whole executive powers of that Office in its different Departments.

All official correspondence is to be carried on and the resolutions of Government are still to be passed in the name of the Governor in Council.

The remaining Officers and Men of His Majesty's 65th Regiment being now about to embark for Europe, the Honorable the Governor in Council performs a most pleasing part of his duty in recording the sense the entertains of the eminent services performed by that Corps in India.

The whole period since the arrival of the 65th has been an almost uninterrupted course of active employment. Independent of its services in the territories connected with this Presidency which alone would entitle it to the cordial approbation of the Government, it has proceeded on various distant expeditions by land and sea, and has shared in some of the most arduous marches and of the severest conflicts recorded in the Military history of the East.

During every part of its long and extended course of service the strict discipline of the 65th Regiment, its cheerful endurance of fatigues, no less than its conspicuous Spirit and gallantry in the field, entitle it to the highest testimonies of respect and applause.

The Governor in Council will always retain a sincere esteem for this distinguished Regiment, and will ever take the warmest interest in its future fame and prosperity.

By order of the Honorable the Governor in Council.

P. WARDEN, Chief Secretary.

**Stations of Vessels in the River.**

CALCUTTA, SEPTEMBER 3, 1822.

Kedgerie.—ZELIE (F.) passed up.

New Anchorage.—H. C. Ship ASIA, and ST. THIAGO MAIOR, (P.)

Saugor.—H. C. S. DUCHESS OF ATHOLL, JAMES SCOTT, and MARY (Ardlie), outward-bound, remain.

The LOTUS, COMMERCE (Sch.), and NELLY (brig), arrived off Calcutta on Tuesday.

**Bombay News.**

*Bombay, August 10, 1822.*—We have again to inform our readers that we have no important intelligence to communicate, and that our weekly task has been almost limited to making the best extracts, and selections in our power from the Papers of the Sister Presidencies, the communications of Correspondents, &c.

We have copied from the GAZETTE an article relative to the affairs of Turkey; by which it would seem that in Egypt a war between Russia and the Porte was expected. Private letters dated Tabriz 8th May, mention that a courier had arrived there the 7th from Teflis, with accounts that the relations between Russia and Turkey continued in the same unsettled state. The news from Constantinople came down to the commencement of March, at which period no definite arrangement had taken place towards a pacification; nor any military movement indicating the approach of hostilities. Ali Pasha had been decapitated and his immense treasures seized for the Sultan. The Greeks in the Morea still continued to oppose the Turkish Government. Their armies amounted to 80,000 men. A special mission had been sent from St. Petersburg to Vienna under the direction of Count Tatischeff, who was only to remain a few days and was to return to report in person to the Emperor the result of his mission. General Yermoloff had quitted Teflis on an expedition against the Circassians, and from this latter circumstance it was supposed that no immediate hostilities were likely to arise between Turkey and Russia; Teflis being an important point, whence operations might be commenced against the defenceless eastern frontier of Turkey.

*Bombay Theatre.*—We have seldom witnessed a more successful display of histrionic talent than on the evening of Monday last, when Mrs. Centlivre's much admired comedy of the *Wonder*, was performed before an overflowing house, by the gentlemen amateurs of this settlement; and we are confident we shall not be thought in any degree to detract from the established fame of the Bombay Stage by congratulating the Society on the great and efficient acquisition of strength which the Corps Dramatique of our little island, seems to have obtained from among the late arrivals. Indeed if we could have secured ourselves more effectually from the heat of the climate and the buzz of mosquitoes, it would not have required any great effort of the imagination to have fancied ourselves within the sphere of Covent Garden or Old Drury, contemplating the performance of the most admired actors of our native land. We are indeed truly glad to see the theatrical spirit revived with so much energy; and we may safely say that as long as any taste for the refined recreation of the Stage remains with us, the efforts of the gentlemen, who have so kindly volunteered to create amusement in a country, where so little real amusement is to be found, will meet with the only encouragement they wish for—crowded houses, and the smiles and approbation of the Fair.

A great pressure of other business has prevented us from going into a more detailed account of the late performance, but if we do not now enter upon a critique on the several characters, it must be attributed more to our inability, under such circumstances, to do them justice, than to any idea of our not fully appreciating their merits. To those of our friends who were present on the late occasion, such a critique would be unnecessary, and if we abstain from more fully imparting to those who were absent, our opinion of the high standard to which the histrionic art has now attained on our boards they have at least the satisfaction of learning from the preceding columns of our paper, that another opportunity will offer in a few days of satisfying themselves by personal observation of the correctness, or otherwise, of our judgment.

The Honorable the Governor, we lament to say, was prevented by indisposition from honoring the performance with his presence on Monday; but we are happy to know that the entertainments for Thursday next, will be more fortunate; for we understand that the managers and performers have made their arrangements with unparalleled expedition, in the hope of their exertions being sanctioned by the presence of the Governor before his departure for the Deccan.—Indeed we know that in the Farces, which have been selected for Thursday next as more suitable to the heat of the present season, and the exigency of the occasion, than a long Comedy—the several characters were not finally cast until a late hour last night.—If therefore the pieces have been got up with an expedition more creditable to the efforts and dispositions to please of our dramatic corps than perhaps a strict knowledge of the strength of their memories would justify, we can only hope that their errors on this occasion at least will meet with indulgence, however anxious they may be at other times to submit themselves to the severity of criticism.—*Bombay Gazette.*

**Death.**

At Bombay, on the 4th ultimo, in the 20th year of her age, ANNE, the wife of JAMES TAYLOR, Assistant in the Office of Accountant General.